Volume 40, Number 20
Pages 1337–1528
October 15, 2015

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

JASON KANDER

SECRETARY OF STATE

MISSOURI REGISTER

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March 1, 2016	**April 1, 2016**	April 30, 2016	May 30, 2016
March 15, 2016	**April 15, 2016**	April 30, 2016	May 30, 2016

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

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Editor *(Name and complete mailing address)*

Curtis Treat, PO Box 1767, Jefferson City, MO 65102

Managing Editor *(Name and complete mailing address)*

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15. **Extent and Nature of Circulation**			**Average No. Copies Each Issue During Preceding 12 Months**	**No. Copies of Single Issue Published Nearest to Filing Date**
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h. Total *(Sum of 15f and g)*			187	181
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c. Total Requested Copy Distribution (Line 15f) + Requested/Paid Electronic Copies (Line 16a) ▶	177	171
d. Percent Paid and/or Requested Circulation (Both Print & Electronic Copies) (16b divided by 16c × 100) ▶	76%	75%

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Marlene Hiles, Director	9/10/15

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

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1. Complete and file one copy of this form with your postmaster annually on or before October 1. Keep a copy of the completed form for your records.

2. In cases where the stockholder or security holder is a trustee in items 10 or 11, include the name of the person or corporation for whom the trustee is acting. Also include in item 10 the names and addresses of all stockholders owning or holding one (1) percent or more of the total amount of stock. If not owned by a corporation, give the name and address of each individual owner. If owned by a partnership or other unincorporated firm, give its name and address as well as the name and address of each individual owner. If the publication is published by a nonprofit organization, give its name and address and complete item 12. In item 11, include all bondholders, mortgagees, and other security holders owning or holding one (1) percent or more of the total amount of bonds, mortgages, or other securities. If none, check the box. Use blank sheets if more space is required.

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5. As a requester publication, this Statement of Ownership, Management, and Circulation must be published, i.e., it must be printed in an issue that's primary mailed distribution is produced not later than October 10 for publications issued more frequently than weekly; or not later than October 31 for publications issued weekly or less frequently but more frequently than monthly; or in the first issue that's primary mailed distribution is produced after October 1 for all other publications.

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7. In item 17, report the date of the issue in which this Statement of Ownership will be published, if applicable.

8. Item 17 must be signed.

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Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 15—Cafeteria Plan

EMERGENCY AMENDMENT

1 CSR 10-15.010 Cafeteria Plan. The commissioner is replacing the *Cafeteria Plan for the Employees of the State of Missouri* document referred to in section (2) with an updated version.

PURPOSE: This amendment makes changes to the benefits available to state and other public entity employees under the State of Missouri's cafeteria plan (the Plan).

EMERGENCY STATEMENT: This emergency amendment must be effective January 1, 2016, when the new Plan year begins. If this amendment were not enacted as an emergency, the employees would not be able to take advantage of higher maximum contribution limits to the flexible medical spending accounts. This amendment provides for one (1) change to the Plan that will reduce costs for both the state, as the employer, and the employees. The change removes language referring to specific dollar amount limits for the flexible spending accounts and instead refers to limits that are set in the annual open enrollment materials that are made available to all state employees. The removal of the specific dollar amount limits allows the state to continue to changes the limits as set by the IRS without having to amend the rule each year that the IRS makes changes to the limits. The IRS typically makes cost of living increases on an annual basis that may increase the allowable maximum contribution.

*A proposed amendment which covers this same material is published in this issue of the **Missouri Register**. This emergency amendment complies with the protections extended by the **Missouri** and **United States Constitutions** and limits its scope to the circumstances creating the emergency. The Office of Administration follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances. This emergency amendment was filed September 15, 2015, becomes effective January 1, 2016, and expires June 28, 2016.*

(2) The commissioner of administration shall maintain the cafeteria plan, in written form, denominated as the *Cafeteria Plan for the Employees of the State of Missouri* included herein.

*See **Appendix A Missouri State Employees' Cafeteria Plan Document** printed with the proposed amendment on pages 1347–1416 of this issue of the **Missouri Register**.*

*AUTHORITY: section 33.103, RSMo Supp. [2014] **2013**. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Sept. 15, 2015, effective Jan. 1, 2016, expires June 28, 2016. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 15—Cafeteria Plan

PROPOSED AMENDMENT

1 CSR 10-15.010 Cafeteria Plan. The commissioner is replacing the *Cafeteria Plan for the Employees of the State of Missouri* document referred to in section (2) with an updated version.

PURPOSE: This amendment makes changes to the benefits available to state and other public entity employees under the State of Missouri's cafeteria plan (the Plan).

(2) The commissioner of administration shall maintain the cafeteria plan, in written form, denominated as the *Cafeteria Plan for the Employees of the State of Missouri* included herein.

APPENDIX A
MISSOURI STATE EMPLOYEES' CAFETERIA PLAN DOCUMENT

Cafeteria Plan
for the Employees of
the State of Missouri

Plan Document

Effective January 1, 2016
(with an original effective date of January 1, 1992)

Cafeteria Plan
for the Employees of
the State of Missouri

Plan Document

Table of Contents

Section 1
Introduction

1.1 **Establishment of the Plan**

The State of Missouri (the "Employer") hereby amends the State of Missouri Cafeteria Plan (the "Plan") effective January 1, 2016(the "Effective Date"). The original Plan was effective January 1, 1992.

1.2 **Purpose of the Plan**

This Plan allows an Employee to participate in the following Benefit Options based on his/her eligibility status as stated in Section 4:

- **Premium Payment Plan (PPP)** to make pre-tax Salary Reduction Contributions to pay the Employee's share of the premium or contribution for the Health Plan, Dental Plan, and/or Vision Plan.
- **Health Flexible Spending Account (Health FSA)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of certain Health Care Expenses.
- **Limited Scope Health Flexible Spending Account (Limited Scope Health FSA)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of Dental and Vision Expenses.
- **Dependent Care Assistance Program (DCAP)** to make pre-tax Salary Reduction Contributions to an account for reimbursement of certain Dependent Care Expenses.
- **Health Savings Account Contribution Benefit (HSA Contribution Benefit)** to make pre-tax Salary Reduction Contributions to a Health Savings Account.

1.3 **Legal Status**

This Plan is intended to qualify as a "cafeteria plan" under the Code §125, and regulations issued thereunder and shall be interpreted to accomplish that objective.

The **Health FSA** and the **Limited Scope Health FSA** are intended to qualify as self-insured health reimbursement plans under Code §105, and the Health Care Expenses reimbursed are intended to be eligible for exclusion from participating Employees' gross income under Code §105(b).

The **DCAP** is intended to qualify as a dependent care assistance program under Code §129, and the Dependent Care Expenses reimbursed are intended to be eligible for exclusion from participating Employees' gross income under Code §129(a).

The **HSA Contribution Benefit** is intended to meet all requirements of §223 of the Code.

Although reprinted within this document, the **Health FSA**, the **Limited Scope Health FSA**, the **DCAP** and the **HSA Contribution Benefit** are separate plans for purposes of administration and all reporting and nondiscrimination requirements imposed by Code §§105 and 129. The **Health FSA** and the **Limited Scope Health FSA** are also separate plans for purposes of applicable provisions of COBRA and HIPAA.

1.4 Capitalized Terms

Many of the terms used in this document begin with a capital letter. These terms have special meaning under the Plan and are defined in the Glossary at the end of this document or in other relevant Sections. When reading the provisions of the Plan, please refer to the Glossary at the end of this document. Becoming familiar with the terms defined there will provide a better understanding of the procedures and Benefits described.

Section 2 **General Information**

Name of the Cafeteria Plan	State of Missouri Cafeteria Plan
Name of Employer	State of Missouri
Address of Plan	Office of Administration, P.O. Box 809, Jefferson City, MO 65102-0809
Plan Administrator	State of Missouri/Office of Administration
Plan Sponsor and its IRS	State of Missouri/Office of Administration
Employer Identification Number	44-6000987
Named Fiduciary & Agent for Service of Legal Process	State of Missouri
Type of Administration	The Plan is administered by the Plan Administrator with Benefits provided in accordance with the provisions of the State of Missouri Cafeteria Plan. It is not financed by an insurance company and Benefits are not guaranteed by a contract of insurance. State of Missouri may hire a third party to perform some of its administrative duties such as claim payments and enrollment.
Plan Number	501
Benefit Option Year	The twelve-month period ending December 31 (with an additional 2 ½ month grace period).
Plan Effective Date	January 1, 2016, with an original effective date of January 1, 1992
Claims Administrator	Application Software, Inc., dba ASI, dba ASIFlex
Plan Renewal Date	January 1
Internal Revenue Code and Other Federal Compliance	It is intended that this Plan meet all applicable requirements of the Internal Revenue Code of 1986 (the "Code") and other federal regulations. In the event of any conflict between this Plan and the Code or other federal regulations, the provisions of the Code and the federal regulations shall be deemed controlling, and any conflicting part of this Plan shall be deemed superseded to the extent of the conflict.
Discretionary Authority	The Plan Administrator shall perform its duties as the Plan Administrator and in its sole discretion, shall determine the appropriate courses of action in light of the reason and purpose for which this Plan is established and maintained.

In particular, the Plan Administrator shall have full and sole discretionary authority to interpret all Plan documents, and make all interpretive and factual determinations as to whether any individual is entitled to receive any Benefit under the terms of this Plan. Any construction of the terms of any Plan document and any determination of fact adopted by the Plan Administrator shall be final and legally binding on all parties. Any interpretation shall be subject to review only if it is arbitrary, capricious, or otherwise an abuse of discretion.

Any review of a final decision or action of the Plan Administrator shall be based only on such evidence presented to or considered by the Plan Administrator at the time it made the decision that is the subject of review. Accepting any Benefits or making any claim for Benefits under this Plan constitutes agreement with and consent to any decisions that the Plan Administrator makes in its sole discretion and further constitutes agreement to the limited standard and scope of review described by this section -- Section 2.

Section 3
Benefit Options and Method of Funding

3.1 **Benefits Offered**

Each Employee may elect to participate in one or more of the following Benefits based upon his/her eligibility as stated in Section 4:

- **Premium Payment Plan (PPP)** as described in Schedule A.
- **Health Flexible Spending Account (Health FSA)** as described in Schedule B.
- **Health Savings Account Contribution Benefit (HSA Contribution Benefit)** as described in Schedule C.
- **Dependent Care Assistance Program (DCAP)** as described in Schedule D.
- **Limited Scope Health Flexible Spending Account (Limited Scope Health FSA)** as described in Schedule E.

Benefits under the Plan shall not be provided in the form of deferred Compensation.

3.2 **Employer and Participant Contributions**

- **Employer Contributions.** The Employer may, but is not required to, contribute to any of the Benefit Options. There are no Employer Contributions for the **PPP** under this Plan; however, if the Participant elects the **PPP** as described in Schedule A, the Employer may contribute toward the Health Plan, Dental Plan and/or Vision Plan as provided in the respective plan or policy of the Employer.
- **Participant Contributions.** The Employer shall withhold from a Participant's Compensation by Salary Reduction on a pre-tax basis, or with after-tax deductions, an amount equal to the Contributions required for the Benefits elected by the Participant under the Salary Reduction Agreement. The maximum amount of Salary Reductions shall not exceed the aggregate cost of the Benefits elected.

3.3 **Computing Salary Reduction Contributions**

- **Salary Reductions per Pay Period.** The Participant's Salary Reduction is an amount equal to:
    - The annual election for such Benefits payable on a semi-monthly or monthly basis in the Period of Coverage;
    - An amount otherwise agreed upon between the Employer and the Participant; or
    - An amount deemed appropriate by the Plan Administrator. (Example: in the event of a shortage of reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate.)

- **Salary Reductions Following a Change of Elections.** If the Participant changes his or her election under the **PPP**, **Health FSA**, **Limited Scope Health FSA**, or **DCAP,** as permitted under the Plan, the Salary Reductions will be, for the Benefits affected, calculated as follows:
    - An amount equal to:
        - The new annual amount elected pursuant to the Method of Timing and Elections section below;
        - Less the aggregate Contributions, if any, for the period prior to such election change;
        - Payable over the remaining term of the Period of Coverage commencing with the election change;
    - An amount otherwise agreed upon between the Employer and the Participant; or
    - An amount deemed appropriate by the Plan Administrator. (Example: in the event of a shortage of reducible Compensation, amounts withheld and the Benefits to which Salary Reductions are applied may fluctuate.)
- **Salary Reductions Considered Employer Contributions for Certain Purposes.** Salary Reductions to pay for the Participant's share of the Contributions for Benefit Options elected for purposes of this Plan and the Code are considered Employer Contributions.
- **Salary Reduction Balance Upon Termination of Coverage.** If, as of the date that coverage under this Plan terminates, a Participant's year-to-date Salary Reductions exceed or are less than the required Contributions necessary for Benefit Options elected up to the date of termination, the Employer will either return the excess to the Participant as additional taxable wages or recoup the amount due through Salary Reduction amounts from any remaining Compensation.
- **After-Tax Contributions for PPP.** After-tax Contributions for the Health Plan will be paid outside of this Plan.

3.4 **Funding This Plan**

- **Benefits Paid from General Assets.** All of the amounts payable under this Plan shall be paid from the general assets of the Employer. Nothing herein will be construed to require the Employer nor the Plan Administrator to maintain any fund or to segregate any amount for the Participant's benefit. Neither the Participant, nor any other person, shall have any claim against, right to, or security or other interest in any fund, account or asset of the Employer from which any payment under this Plan may be made. There is no trust or other fund from which Benefits are paid. While the Employer has complete responsibility for the payment of Benefits out of its general assets, it may hire a third party administrator to perform some of its administrative duties such as claims payments and enrollment.
- **Participant Bookkeeping Account.** While all Benefits are to be paid from the general assets of the Employer, the Employer will keep a bookkeeping account in the name of each Participant. The bookkeeping account is used to track allocation and payment of Plan Benefits. The Plan

Administrator will establish and maintain under each Participant's bookkeeping account a subaccount for each Benefit Option elected by each Participant.

- **Maximum Contributions.** The maximum Contributions that may be made under this Plan for the Participant are the total of the maximums that may be elected for the **PPP** as described in Schedule A, **Health FSA** as described in Schedule B, **HSA Contribution Benefit** as described in Schedule C, the **DCAP** as described in Schedule D, and the **Limited Scope Health FSA** as described in Schedule E.

Section 4
Eligibility and Participation

4.1 **Eligibility to Participate**

Any Employee (see definition of Employee as set forth in the glossary) may participate in the DCAP benefit.

Any Benefit Eligible Employee (see definition of Benefit Eligible Employee as set forth in the glossary) may participate in all benefit options for this plan.

Eligibility requirements to participate in the individual Benefit Options may vary from the eligibility requirements to participate in this Plan.

4.2 **Required Salary Reduction Agreement**

To participate in the **Health FSA, Limited Scope Health FSA,** or **DCAP**, an Employee must complete, sign and return to the Plan Administrator a Salary Reduction Agreement by the deadline designated by the Plan Administrator. If an Employee fails to return a Salary Reduction Agreement, the Employee is deemed to have elected cash and will not be allowed to change such election until the next Open Enrollment unless the Employee experiences an event permitting an election change mid-year.

The Employee may begin participation on the 1st of the month coincident with or next following the date on which the Employee has met the Plan's eligibility requirements or in accordance with the Enrollment requirements each year.

4.3 **Termination of Participation**

A Participant will terminate participation in this Plan upon the earlier of:

- The expiration of the Period of Coverage for which the Employee has elected to participate unless during the Open Enrollment Period for the next Plan Year the Employee elects to continue participating;
- The termination of this Plan; or
- The date on which the Employee ceases to be an eligible Employee because of retirement, termination of employment, layoff, reduction in hours, or any other reason. Eligibility may continue beyond such date for purposes of COBRA coverage, where applicable as set forth in the respective Schedule attached hereto, as may be permitted by the Plan Administrator on a uniform and consistent basis, but not beyond the end of the current Plan Year.

False or Fraudulent Claims. The Plan Administrator has the authority to terminate participation in the Plan if it has been determined that a Participant has filed a false or fraudulent claim for Benefits. In addition, an Employee filing a false or fraudulent claim is subject to disciplinary action, up to and including termination of employment.

Termination of participation in this Plan will automatically revoke the Participant's participation in the elected Benefit Options, according to the terms thereof.

4.4 **Rehired Employees**

If a Participant terminates employment with the Employer for any reason, including, but not limited to, disability, retirement, layoff, leave of absence without pay, or voluntary resignation, and then is rehired within the same Plan Year and within 30 days or less of the date of termination of employment, the Employee will be reinstated with the same elections that the Participant had prior to termination. If the Employer rehires a former Participant within the same Plan Year but more than 30 days following termination of employment and the Participant is otherwise eligible to participate in the Plan, then the individual may make new elections as a new hire.

4.5 **Eligibility Rules Regarding the Health FSA**

A Benefit Eligible Employee enrolled in a Health Savings Account (HSA) is not eligible to enroll in the **Health FSA** but is eligible to enroll in the **Limited Scope Health FSA. An Employee is only allowed to enroll in either the Health FSA** or the **Limited Scope Health FSA**, not both.

4.6 **Eligibility Rules Regarding the HSA Contribution Benefit**

An Employee must be an HSA Employee to elect to participate in the **HSA Contribution Benefit Plan.**

Only Employees who satisfy the following conditions may be considered an HSA Employee:

- Covered under a qualifying High Deductible Health Plan (HDHP) maintained by the Employer;
- Opened an HSA with the custodian chosen by the Employer;
- Not covered under any other non-HDHP maintained by one Employer that is determined by the Employer to offer disqualifying health coverage;
- Not claimed as a tax dependent by anyone else;
- Not enrolled in Medicare coverage; and
- Eligible to participate in the Plan.

4.7 **FMLA Leaves Of Absence**

Health Benefits. Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under FMLA then to the extent required by FMLA, the Participant will be entitled to continue the Benefits that provide health coverage on the same terms and conditions as if the Participant were still an active Employee. For example, the Employer will continue to pay its share of the Contribution to the extent the Participant opts to continue coverage. In the event of unpaid FMLA leave, a Participant may elect to continue such Benefits.

If the Participant elects to continue coverage while on FMLA leave, then the Participant may pay his or her share of the Contribution:

- With after-tax dollars, by sending monthly payments to the Employer's designee by the due date established by the Employer;

- With pre-tax dollars, by having such amounts withheld from the Participant's ongoing Compensation, if any; or

- By pre-paying all or a portion of the Contribution for the expected duration of the leave on a pre-tax Salary Reduction basis out of pre-leave Compensation.

To pre-pay the Contribution, the Participant must make a special election to that effect prior to the date that such Compensation would normally be made available. Pre-tax dollars may not be used to fund coverage during the next Plan Year (notwithstanding the Grace Period provision). However, see Sections B.7, D.8, and E.7 for information regarding the Grace Period for participants who terminate coverage.

Coverage will terminate if Contributions are not received by the due date established by the Employer. If a Participant's coverage ceases while on FMLA leave for any reason, including for non-payment of Contributions, the Participant will be entitled to re-enter upon return from such leave on the same basis as the Participant was participating in the Plan prior to the leave, or as otherwise required by the FMLA.

A Participant whose coverage ceased under any of the aforementioned plans will be entitled to elect whether to be reinstated in such plans at the same coverage level as in effect before the FMLA leave with increased Contributions for the remaining Period of Coverage, or at a coverage level that is reduced pro-rata for the period of FMLA leave during which the Participant did not pay Contributions. If a Participant elects a coverage level that is reduced pro-rata for the period of FMLA leave, the amount withheld from a Participant's Compensation on a payroll-by-payroll basis for the purpose of paying for his or her Contributions will be equal to the amount withheld prior to the period of FMLA leave.

Non-Health Benefits. If a Participant goes on a qualifying leave under the FMLA, then entitlement to non-health benefits (such as **DCAP** Benefits) is to be determined by the Employer's policy for providing such Benefits when the Participant is on leave not qualified as an FMLA leave of absence, as described below. If such policy permits a Participant to discontinue Contributions while on leave, then the Participant will, upon returning from leave, be required to repay the Contributions not paid by the Participant during the leave. Payment shall be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as may be agreed upon by the Plan Administrator and the Participant or as the Plan Administrator otherwise deems appropriate.

4.8 Non-FMLA Leaves of Absence

If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the Contributions due for the Participant will be paid by pre-payment before going on leave, by after-tax Contributions while on leave or with catch-up Contributions after the leave ends, as may be determined by the Plan Administrator.

If a Participant goes on an unpaid leave that affects eligibility, the election change rules set forth by this Plan will apply. To the extent COBRA applies, the Participant may continue coverage under COBRA.

4.9 **Death**

A Participant's beneficiaries or representative of the Participant's estate, may submit claims for expenses that the Participant incurred through the date of death. A Participant may designate a specific beneficiary for this purpose. If no beneficiary is specified, the Plan Administrator or its designee may designate the Participant's Spouse, another Dependent, or representative of the estate. Claims incurred by the Participant's covered Spouse or any other of the Participant's covered Dependents prior to the end of the month in which the Participant dies may also be submitted for reimbursement.

4.10 **COBRA**

Under the COBRA rules, as discussed in the attached Schedules B and C, where applicable, the Participant's Spouse and Dependents may be able to continue to participant under the **Health FSA** through the end of the Period of Coverage in which the Participant dies. The Participant's Spouse and Dependents may be required to continue making Contributions to continue their participation.

4.11 **USERRA**

Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under USERRA, then to the extent required by USERRA, the Employer will continue the Benefits that provide health coverage on the same terms and conditions as if the Participant were still an active Employee. In the event of unpaid USERRA leave, a Participant may elect to continue such Benefits during the leave.

If the Participant elects to continue coverage while on USERRA leave, then the Participant may pay his or her share of the Contribution with:

- After-tax dollars, by sending monthly payments to the Employer by the due date established by the Employer; or

- Pre-tax dollars, by having such amounts withheld from the Participant's ongoing Compensation, if any, including unused sick days and vacation days.

Coverage will terminate if Contributions are not received by the due date established by the Employer. If a Participant's coverage ceases while on USERRA leave for any reason, including for non-payment of Contributions, the Participant will be entitled to re-enter such Benefit upon return from such leave on the date of such resumption of employment and will have the same opportunities to make elections under this Plan as persons returning from non-USERRA leaves. Regardless of anything to the contrary in this Plan, an Employee returning from USERRA leave has no greater right to Benefits for the remainder of the Plan Year than an Employee who has been continuously working during the Plan Year.

Section 5
Method of Timing and Elections

5.1 **Initial Election**

An Employee must complete, sign and return a Salary Reduction Agreement within the election-period set forth therein to enroll in the Benefit Options, other than the **PPP**.

Unless otherwise specified by the Employer, an Employee who first becomes eligible to participate in the Plan mid-year will commence participation on the 1st day of the month coinciding with or after the date the Employee completes, signs and returns a Salary Reduction Agreement or completes a Salary Reduction Agreement using the electronic system produced by the Employer (if any), within the election period set forth therein.

Eligibility for Benefits shall be subject to the additional requirements, if any, specified in the applicable Benefit Option (see Glossary for definition). The provisions of this Plan are not intended to override any exclusions, eligibility requirements or waiting periods specified in the applicable Benefit Options.

5.2 **Open Enrollment**

During each Open Enrollment Period, the Plan Administrator shall make available a Salary Reduction Agreement to each Employee who is eligible to participate in the Plan. The Salary Reduction shall enable the Employee to elect to participate in the Benefit Options for the next Plan Year, and to authorize the necessary Salary Reductions to pay for the Benefits elected. The Employee must complete sign and return the Salary Reduction Agreement or complete an election using the electronic system provided by the Employer, if any, to the Plan Administrator on or before the last day of the Open Enrollment Period. There is an exception of automatic elections in the PPP.

If an Employee makes an election to participate during an Open Enrollment Period, then the Employee will become a Participant on the first day of the next Plan Year.

The Employer may, in lieu of a Salary Reduction Agreement, provide an electronic method for Employees to use to make elections. The Employer may require Employees to use the electronic system to make elections. Use of an electronic system will have the same effect as a signed Salary Reduction Agreement.

5.3 **Failure To Elect**

If an Employee fails to complete, sign and return a Salary Reduction Agreement or fails to complete an election using the electronic system (if any) provided by the Employer within the time described in the Elections paragraphs as discussed immediately above, then the Employee will be deemed to have elected to receive his or her entire Compensation in cash (excluding the PPP). The Employer provides for an automatic election for the **PPP**, therefore, the Employee will have also agreed to a Salary Reduction for such Employee's Contribution to the **PPP**.

Such Employee may not enroll in the Plan:

- Until the next Open Enrollment Period; or

- Until an event occurs that would justify a mid-year election change as described in the Irrevocability of Election and Exceptions section below.

Section 6
Irrevocability of Elections and Exceptions

6.1 Irrevocability of Elections

A Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates, except as described in this Section.

The irrevocability rules do not apply to the **HSA Contribution Benefit** election.

The rules regarding irrevocability of elections and exceptions are quite complex. The Plan Administrator will interpret these rules in accordance with prevailing IRS guidance.

6.2 Procedure for Making New Election If Exception to Irrevocability Applies

- **Timing for Making New Election if Exception to Irrevocability Applies**. A Participant may make a new election within 30 days of the occurrence of an event described in section 6.4 below, if the election under the new Salary Reduction Agreement is made on account of and corresponds to the event. A Change in Status, as defined below, that automatically results in ineligibility in the Health Plan shall automatically result in a corresponding election change, whether or not requested.

- **Effective Date of New Election.** Elections made pursuant to this Section shall be effective on the 1st of the month following or coinciding with the Plan Administrator's receipt and approval of the election request for the balance of the Period of Coverage following the change of election unless a subsequent event allows for a further election change. Except as provided in "Certain Judgments, Decrees and Orders" or for HIPAA special enrollment rights in the event of birth, adoption, or placement for adoption, all election changes shall be effective on a prospective basis only.

- **Changes**. For subsequent Plan Years, the maximum and minimum dollar limit may be changed by the Plan Administrator and shall be communicated to Employees through the Salary Reduction Agreement or other document.

- **Effect on Maximum Benefits**. Any change in an election affecting annual Contributions to the **Health FSA, Limited Scope Health FSA,** or **DCAP** also will change the maximum reimbursement Benefits for the balance of the Period of Coverage commencing with the election change. Such maximum reimbursement Benefits for the balance of the Period of Coverage shall be calculated by adding:

    - Any Contributions made by the Participant as of the end of the portion of the Period of Coverage immediately preceding the change in election; to

    - The total Contributions scheduled to be made by the Participant during the remainder of such Period of Coverage to the Benefit Option; reduced by

    - All reimbursements made during the entire Period of Coverage.

6.3 **Change in Status Defined**

A Participant may make a new election that corresponds to a gain or loss of eligibility and coverage under this Plan or under any other plan maintained by the Employer or a plan of the Spouse's or Dependent's employer that was caused by the occurrence of a Change in Status. A Change in Status is any of the events described below, as well as any other events included under subsequent changes to Code §125 or regulations issued thereunder, which the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan:

- **Legal Marital Status.** A change in a Participant's legal marital status including marriage, death of a Spouse, divorce, legal separation or annulment;
- **Number of Dependents.** Events that change a Participant's number of Dependents, including birth, death, adoption, and placement for adoption. In the case of the **DCAP**, a change in the number of Qualifying Individuals as defined in Code §21(b)(1);
- **Employment Status.** Any of the following events that change the employment status of the Participant, Spouse or Dependents:
    - A termination or commencement of employment;
    - A commencement of or return from an unpaid leave of absence;
    - A change in worksite; or
    - If the eligibility conditions of this Plan or another employee benefit plan of the Participant, Spouse or Dependent depend on the employment status of that individual and there is a change in that individual's status with the consequence that the individual becomes, or ceases to be, eligible under this Plan or another employee benefit plan;
- **Dependent Eligibility Requirements.** An event that causes a Dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular Benefit; and
- **Change in Residence.** A change in the place of residence of the Participant, Spouse or Dependent(s).

6.4 **Events Permitting Exception to Irrevocability Rule**

A Participant may change an election as described below upon the occurrence of the stated events for the applicable Benefit Option.

The following rules shall apply to all Benefit Options except where expressly limited below.

- **Open Enrollment Period.** A Participant may change an election during the Open Enrollment Period.

- **Termination of Employment.** A Participant's election will terminate upon termination of employment as described in the Eligibility and Participation section above.

- **Leave of Absence.** A Participant may change an election upon a leave of absence as described in the Eligibility and Participation section above.

- **Change in Status.** *(Applies to the **PPP, Health FSA, Limited Scope Health FSA**, and **DCAP** as limited below.)* A Participant may change the actual or deemed election under the Plan upon the occurrence of a Change in Status, but only if such election change corresponds with a gain or loss of eligibility and coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer, referred to as the general consistency requirement.

  A Change in Status that affects eligibility for coverage also includes a Change in Status that results in an increase or decrease in the number of an Employee's family members who may benefit from the coverage.

  The Plan Administrator, on a uniform and consistent basis, shall determine, based on prevailing IRS guidance, whether a requested change satisfies the general consistency requirement. Assuming that the general consistency requirement is satisfied, a requested election change must also satisfy the following specific consistency requirements in order for a Participant to be able to alter elections based on the specified Change in Status:

  - **Loss of Spouse or Dependent Eligibility.** For a Change in Status involving a Participant's divorce, annulment or legal separation, the death of a Spouse or a Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, a Participant may only elect to cancel health plan, dental plan, and/or vision plan coverage for:

    - The Spouse involved in the divorce, annulment, or legal separation;

    - The deceased Spouse or Dependent; or

    - The Dependent that ceased to satisfy the eligibility requirements.

    Canceling coverage for any other individual under these circumstances fails to correspond with that Change in Status.

    Notwithstanding the foregoing, if the Participant or his or her Spouse or Dependent becomes eligible for COBRA or similar health plan continuation coverage under the Employer's plan, then the Participant may increase his or her election to pay for such coverage. This rule does not apply to a Participant's Spouse who becomes eligible for COBRA or similar coverage as a result of divorce, annulment, or legal separation.

  - **Gain of Coverage Eligibility Under Another Employer's Plan.** When a Participant, Spouse or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of that Participant's Spouse or Dependent, a Participant may elect to terminate or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained

or will obtain coverage under the Spouse's or Dependent's employer's plan, unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

- **Special Consistency Rule for DCAP Benefits.** With respect to the **DCAP**, the Participant may change or terminate the Participant's election upon a Change in Status if:
  - Such change or termination is made on account of and corresponds with a Change in Status that affects eligibility for coverage under an Employer's plan; or
  - The election change is on account of and corresponds with a Change in Status that affects eligibility of Dependent Care Expenses for the tax exclusion under Code §129.

- **HIPAA Special Enrollment Rights** (*Applies to the **PPP** only*). If the Participant, the Participant's Spouse or Dependent is entitled to special enrollment rights under a group health plan as required by HIPAA, then the Participant may revoke a prior election for group health plan coverage and make a new election provided that the election change corresponds with such HIPAA special enrollment right. As more specifically defined by HIPAA, a special enrollment right will arise in the following circumstances:
  - The Participant, Spouse or Dependent declined to enroll in group health plan coverage because the Participant, the Participant's Spouse or Dependent had coverage, and eligibility for such coverage is subsequently lost because the coverage was provided under COBRA and the COBRA coverage was exhausted; or the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated;
  - The Participant acquired a new Dependent as a result of marriage, birth, adoption or placement for adoption; or
  - The Employee or Dependents who are eligible but did not enroll for coverage when initially eligible and:
    - The Employee or Dependent's Medicaid or Children's Health Insurance Program (CHIP) coverage terminated as a result of loss of eligibility and the Employee requests coverage under the Plan within 60 days after the termination; or
    - The Employee or Dependent becomes eligible for a premium assistance subsidy under Medicaid or CHIP, and the employee requests coverage under the Plan within 60 days after eligibility is determined.

  An election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child shall be considered to be consistent with the special enrollment right. An election change due to birth, adoption, or placement for adoption of a new Dependent child may, subject to the group health plan, be effective retroactively for up to 30 days.

- **Certain Judgments, Decrees and Orders.** (*Applies to the **PPP, Health FSA, Limited Scope Health FSA, but does not apply to the DCAP***). If a judgment, decree, or order resulting from a divorce, legal separation, annulment or change in legal custody, including a Qualified Medical Child

Support Order (QMCSO) requires accident or health coverage, including an election for **Health FSA** Benefits for a Participant's Dependent child, a Participant may:

- Change an election to provide coverage for the Dependent child provided that the order requires the Participant to provide coverage; or

- Change an election to revoke coverage for the Dependent child if the order requires that another individual provide coverage under that individual's plan and such coverage is actually provided.

- **Medicare and Medicaid.** (*Applies to the **PPP, Health FSA, Limited Scope Health** FSA, but does not apply to the **DCAP***). If a Participant, Spouse or Dependent is enrolled in a Benefit under this Plan and becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), the Participant may prospectively reduce or cancel the Health Plan covering the person, and the **Health FSA** coverage may be cancelled but not reduced. However, such cancellation will not be effective to the extent that it would reduce future contributions to the **Health FSA** or the **Limited Scope Health FSA** to a point where the total contributions for the Plan Year are less than the amount already reimbursed for the Plan Year. Further, if a Participant, Spouse, or Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, the Participant may prospectively elect to commence or increase the **Health FSA** or the **Limited Scope Health FSA** coverage.

- **Change in Cost.** *(Applies to the **PPP** and **DCAP** as limited below, but does not apply to the **Health FSA** or the **Limited Scope Health FSA**).* For purposes of this Section, "similar coverage" means coverage for the same category of Benefits for the same individuals.

  - **Insignificant Cost Changes.** The Participant is required to increase his or her elective Contributions to reflect insignificant increases in the required Contribution for the Benefit Options, and to decrease the elective Contributions to reflect insignificant decreases in the required Contribution. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine whether an increase or decrease is insignificant based upon all the surrounding facts and circumstances, including but not limited to the dollar amount or percentage of the cost change. The Plan Administrator, on a reasonable and consistent basis, will automatically make this increase or decrease in affected Participants' elective Contributions on a prospective basis.

  - **Significant Cost Increases**. If the Plan Administrator determines that the cost charged to an Employee for a Benefit significantly increases during a Period of Coverage, the Participant may:

    - Make a corresponding prospective increase to elective Contributions by increasing Salary Reductions;

    - Revoke the election for that coverage, and in lieu thereof, receive on a prospective basis coverage under another Benefit Option that provides similar coverage; or

- Terminate coverage going forward if there is no other Benefit Option available that provides similar coverage.

The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost increase is significant.

- **Significant Cost Decreases.** If the Plan Administrator determines that the cost of any Benefit (such as the premium for the Health Plan) significantly decreases during a Period of Coverage, then the Plan Administrator may permit the following election changes:

  - Participants enrolled in that Benefit Option may make a corresponding prospective decrease in their elective contributions by decreasing Salary Reductions;

  - Participants who are enrolled in another benefit package option may change their election on a prospective basis to elect the Benefit Option that has decreased in cost; or

  - Employees who are otherwise eligible may elect the Benefit Option that has decreased in cost on a prospective basis, subject to the terms and limitations of the Benefit Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost decrease is significant.

- **Limitation on Change in Cost Provisions for DCAP Benefits.** The above "Change in Cost" provisions apply to **DCAP** Benefits only if the cost change is imposed by a dependent care provider who is not a relative of the Employee.

- **Change in Coverage.** (*Applies to the **PPP** and **DCAP**, but not to the **Health FSA** or the **Limited Scope Health FSA***). The definition of "similar coverage" applied in the Change of Cost provision above also applies here.

  - **Significant Curtailment.** Coverage under a Plan is deemed to be "significantly curtailed" only if there is an overall reduction in coverage provided under the Plan to constitute reduced coverage generally. If coverage is "significantly curtailed," Participants may elect coverage under a Benefit Option that provides similar coverage. In addition, if the coverage curtailment results in a "Loss of Coverage" as defined below, Participants may drop coverage if no similar coverage is offered by the Employer. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a curtailment is "significant," and whether a Loss of Coverage has occurred in accordance with prevailing IRS guidance.

    - **Significant Curtailment Without Loss of Coverage.** If the Plan Administrator determines that a Participant's coverage under a Benefit Option (or the Participant's, Spouse's or Dependent's coverage under the respective employer's plan) is significantly curtailed without a Loss of Coverage during a Period of Coverage, the Participant may revoke an election for the affected coverage and prospectively elect coverage under another Benefit Option if offered, that provides similar coverage.

    - **Significant Curtailment With a Loss of Coverage.** If the Plan Administrator determines that a Participant's coverage under this Plan (or the Participant's, Spouse's or Dependent's coverage under the respective employer's plan) is significantly curtailed,

and such curtailment results in a Loss of Coverage during a Period of Coverage, the Participant may revoke an election for the affected coverage, and may either prospectively elect coverage under another Benefit Option that provides similar coverage or drop coverage if no other Benefit Option providing similar coverage is offered by the Employer.

- **Definition of Loss of Coverage.** For purposes of this Section, a "Loss of Coverage" means a complete loss of coverage. In addition, the Plan Administrator in its sole discretion and on a uniform and consistent basis, may treat the following as a Loss of Coverage:

  - A substantial decrease in the health care providers available under the Benefit Package Plan;

  - A reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or

  - Any other similar fundamental loss of coverage.

- **Addition or Significant Improvement of a Benefit Option.** If during a Period of Coverage, the Plan adds a new Benefit Option or significantly improves an existing Benefit Option, the Plan Administrator may permit the following election changes:

  - Participants who are enrolled in a Benefit Option other than the newly-added or significantly improved Benefit Option that provides similar coverage may change their election on a prospective basis to cancel the current Benefit Option and instead elect the newly added or significantly improved Benefit Option; and

  - Employees who are otherwise eligible may elect the newly added or significantly improved Benefit Option on a prospective basis, subject to the terms and limitations of the Benefit Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether there has been an addition of, or a significant improvement in, a Benefit Option.

- **Loss of Coverage Under Another Group Health Coverage.** A Participant may prospectively change an election to add group health coverage for the Participant, Spouse or Dependent, if such individual(s) loses coverage under any group health coverage sponsored by a governmental or educational institution, including, but not limited to, the following:

  - A children's health insurance program (CHIP) under Title XXI of the Social Security Act;

  - A health care program of an Indian Tribal government (as defined in Code §7701(a)(40)), the Indian Health Service, or a tribal organization;

  - A state health benefits risk pool; or

  - A foreign government group health plan, subject to the terms and limitations of the applicable Benefit Option.

- **Change in Coverage Under Another Employer Plan.** A Participant may make a prospective election change that is on account of and corresponds with a change made under an employer plan, including a plan of the Employer or a plan of the Spouse's or Dependent's employer, so long as:

  - The other cafeteria plan or qualified benefits plan permits its participants to make an election change that would be permitted under applicable IRS regulations; or

  - The Plan permits Participants to make an election for a Period of Coverage that is different from the plan year under the other cafeteria plan or qualified benefits plan.

  The Plan Administrator, on a uniform and consistent basis, will decide whether a requested change is because of, and corresponds with, a change made under the other employer plan.

- **Enrollment in a Group Health Plan that Offers Minimal Essential Coverage or in a Health Care Exchange or Marketplace.** An Employee may make a **prospective** election change that is on account of and corresponds with a change to his/her PPP election, so long as:

  - The Employee's employment status changes from an expectation to work 30 hours or more per week to an expectation to work less than 30 hours per week (even if that change fails to make the Employee ineligible for Employer-sponsored group health plan coverage); AND the Employee enrolls in a group health plan that offers minimal essential coverage (as defined by the Affordable Care Act) with a new coverage effective date no later than the first day of the second month following the month that includes the date the original coverage is revoked; or

  - The Employee is eligible for a Special Enrollment Period to enroll in a Qualified Health Plan through a Marketplace or the Employee seeks to enroll in a Marketplace during the Marketplace's annual open enrollment period; AND the Employee enrolls in the Marketplace with a new coverage effective date no later than the day immediately following the last day the original coverage is revoked.

- **Change in Dependent Care Service Provider**. A Participant may make a prospective election change that corresponds with a change in the dependent care service provider. For example:

  - If the Participant terminates one dependent care service provider and hires a new dependent care service provider, the Participant may change coverage to reflect the cost of the new service provider; and

  - If the Participant terminates a dependent care service provider because a relative or other person becomes available to take care of the child at no charge, the Participant may cancel coverage.

  A Participant entitled to change an election as described in this Section must do so in accordance with the procedures described in this Section.

6.5 **Election Modifications for HSA Contribution Benefits May be Changed Prospectively At Any Time**

As set forth in Schedule C, an election to make a Contribution to an **HSA Contribution Benefit** can be increased, decreased or revoked at any time on a prospective basis. Such election changes shall be effective no later than the 1st day of the next calendar month following the date that the election change was filed. No other Benefit Option election changes can occur as a result of a change in an **HSA Contribution Benefit** election except as otherwise permitted in this Section.

A Participant entitled to change an election as described in this Section must do so in accordance with the procedures established by the applicable participating Employer or Health Plan.

6.6 **Election Modifications Required by Plan Administrator**

The Plan Administrator may require, at any time, any Participant or class of Participants to amend their Salary Reductions for a Period of Coverage if the Plan Administrator determines that such action is necessary or advisable in order to:

- Satisfy any of the Code's nondiscrimination requirements applicable to this Plan or another cafeteria plan;
- Prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of Benefits hereunder than would otherwise be recognized;
- Maintain the qualified status of Benefits received under this Plan; or
- Satisfy any of the Code's nondiscrimination requirements or other limitations applicable to the Employer's qualified Plans.

  In the event that Contributions need to be reduced for a class of Participants, the Plan Administrator will reduce the Salary Reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest Salary Reduction amount, and continuing with the Participant in the class who had elected the next-highest Salary Reduction amount, and so forth, until the defect is corrected.

Section 7
Claims and Appeals

7.1 Claims Under the Plan

If a claim for reimbursement under the **Health FSA, Limited Scope Health FSA,** or **DCAP** is wholly or partially denied, or if the Participant is denied a Benefit under the Plan regarding the Participant's coverage under the Plan, then the claims procedure described below will apply.

7.2 Notice from ASI

If a claim is denied in whole or in part, ASI will notify the Participant in writing within 30 days of the date that ASI received the claim. This time may be extended for an additional 15 days for matters beyond the control of ASI, including cases where a claim is incomplete. ASI will provide written notice of any extension, including the reason(s) for the extension and the date a decision by ASI is expected to be made. When a claim is incomplete, the extension notice will also specifically describe the required information, and will allow the Participant at least 45 days from receipt of the notice to provide the specified information, and will have the effect of suspending the time for a decision on the claim until the specified information is provided. Notification of a denied claim will include:

- The specific reasons for the denial;
- The specific Plan provisions on which the denial is based;
- A description of any additional material or information necessary to validate the claim and an explanation of why such material or information is necessary; and
- Appropriate information on the steps to take to appeal ASI's adverse benefits determination, including the right to submit written comments and have them considered, and the right to review, upon request and at no charge, relevant documents and other information, and the right to file suit, where applicable, with respect to any adverse benefits determination after the final appeal of the claim.

7.3 First Level Appeal to ASI

If a claim is denied in whole or in part, the Participant, or the Participant's authorized representative, may request a review of the adverse benefits determination upon written application to ASI. The Participant, or the Participant's authorized representative, may request access to all relevant documents in order to evaluate whether to request review of an adverse benefits determination and, if review is requested, to prepare for such review.

An appeal of an adverse benefits determination must be made in writing within 90 days upon receipt of the notice that the claim was denied. If an appeal is not made within the above referenced timeframe all rights to appeal the adverse benefits determination and to file suit in court will be forfeited unless otherwise protected by law. A written appeal should include: additional documents, written comments, and any other information in support of the appeal. The review of the adverse benefits determination will take into account all new information, whether or not presented or available at the initial determination. No deference will be afforded to the initial determination.

7.4 **ASI Action on Appeal**

ASI, within a reasonable time, but no later than 60 days after receipt of the request for review, will decide the appeal. ASI may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with the appeal will be different from and not subordinate to any expert consulted in connection with the initial claim denial. The identity of any medical expert consulted in connection with the appeal will be provided. If the decision on review affirms the initial denial of the claim, a notice will be provided which sets forth:

- The specific reasons for the decision on review;
- The specific Plan provisions on which the decision is based;
- A statement regarding the right to review, upon request and at no charge, relevant documents and other information. If an internal rule, guideline, protocol, or other similar criterion is relied on in making the decision on review, a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge upon request; and
- Appropriate information on the steps to take to appeal ASI's adverse benefits determination, including the right to submit written comments and have them considered, and the right to review, upon request and at no charge, relevant documents and other information, and the right to file suit, where applicable, with respect to any adverse benefits determination after the final appeal of the claim.

7.5 **Second and Final Level Appeal to the Plan Administrator**

If the decision on review affirms ASI's initial denial, the Participant may request a review of the adverse appeal determination upon written application to the Plan Administrator.

The Participant, or the Participant's authorized representative, may request access to all relevant documents in order to evaluate whether to request review of an adverse benefits determination and, if review is requested, to prepare for such review.

An appeal of an adverse appeal determination must be made in writing within 30 days after receipt of the notice that the first level appeal was denied. If an appeal is not made within the above referenced timeframe all rights to appeal the adverse benefits determination and to file suit in court will be forfeited unless otherwise protected by law. A written appeal should include: additional documents, written comments, and any other information in support of the appeal. The review of the adverse benefits determination will take into account all new information, whether or not presented or available at the initial determination. No deference will be afforded to the prior determination.

7.6 **Plan Administrator Action on Appeal**

The Plan Administrator, within a reasonable time, but no later than 60 days after receipt of the request for review, will decide the appeal. The Plan Administrator may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with the appeal will be different from and not subordinate to any expert consulted in connection with the prior claim denial. The identity of any

medical expert consulted in connection with the appeal will be provided. If the decision on review affirms the initial denial of the claim, a notice will be provided which sets forth:

- The specific reason(s) for the decision on review;
- The specific Plan provision(s) on which the decision is based;
- A statement regarding the right to review, upon request and at no charge, relevant documents and other information. If an internal rule, guideline, protocol, or other similar criterion is relied on in making the decision on review, a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge upon request.

7.7 **Appeal Procedure for Eligibility or Salary Reduction Issues**

If the Participant is denied a Benefit under the Plan due to questions regarding the Participant's eligibility or entitlement for coverage under the Plan or regarding the amount the Participant owes, the Participant may request a review upon written application to the Plan Administrator.

The Participant, or the Participant's authorized representative, may request access to all relevant documents in order to evaluate whether to request review of an adverse benefits determination and if review is requested, to prepare for such review.

An appeal of an adverse benefits determination must be made in writing within 180 days upon receipt of the notice that the claim was denied. If an appeal is not made within the above referenced timeframe all rights to appeal the adverse benefits determination and to file suit in court will be forfeited unless otherwise protected by law. A written appeal should include: additional documents, written comments, and any other information in support of the appeal. The review of the adverse benefits determination will take into account all new information, whether or not presented or available at the initial determination. No deference will be afforded to the initial determination.

The Plan Administrator, within a reasonable time, but no later than 30 days after receipt of the request for review, will decide the appeal. The Plan Administrator may, in its discretion, hold a hearing on the denied claim. Any medical expert consulted in connection with the appeal will be different from and not subordinate to any expert consulted in connection with the initial claim denial. The identity of any medical expert consulted in connection with the appeal will be provided. If the decision on review affirms the initial denial of the claim, a notice will be provided which sets forth:

- The specific reasons for the decision on review;
- The specific Plan provisions on which the decision is based;
- A statement regarding the right to review, upon request and at no charge, relevant documents and other information. If an "internal rule, guideline, protocol, or other similar criterion" is relied on in making the decision on review, a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge upon request; and

- Appropriate information on the steps to take to appeal the Plan Adminstrator's adverse benefits determination, including the right to submit written comments and have them considered, and the right to review, upon request and at no charge, relevant documents and other information, and the right to file suit, where applicable, with respect to any adverse benefits determination after the final appeal of the claim.

If the decision on review affirms the Plan Administrator's denial, the Participant may request a review of the adverse appeal determination upon written application to the Plan Administrator. The Second and Final Level of Appeals Procedures described above will apply.

Section 8
Plan Administration

8.1 Plan Administrator

The administration of this Plan shall be under the supervision of the Plan Administrator. It is the principal duty of the Plan Administrator to see that this Plan is carried out in accordance with the terms of the Plan document and for the exclusive benefit of persons entitled to participate in this Plan and without discrimination among them.

8.2 Powers of the Plan Administrator

The Plan Administrator shall have such powers and duties as may be necessary or appropriate to discharge its functions hereunder. The Plan Administrator shall have final discretionary authority to make such decisions and all such determinations shall be final, conclusive and binding. The Plan Administrator shall have the exclusive right to interpret the Plan and to decide all matters hereunder. The Plan Administrator shall have the following discretionary authority:

- To construe and interpret this Plan, including all possible ambiguities, inconsistencies and omissions in the Plan and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of Benefits under this Plan (provided that the Plan Administrator shall exercise such exclusive power with respect to an appeal of a claim);

- To prescribe procedures to be followed and the forms to be used by Employees and Participants to make elections pursuant to this Plan;

- To prepare and distribute information explaining this Plan and the Benefits under this Plan in such manner as the Plan Administrator determines to be appropriate;

- To request and receive from all Employees and Participants such information as the Plan Administrator shall from time to time determine to be necessary for the proper administration of this Plan;

- To furnish each Employee and Participant with such reports in relation to the administration of this Plan as the Plan Administrator determines to be reasonable and appropriate, including appropriate statements setting forth the amounts by which a Participant's Compensation has been reduced in order to provide Benefits under this Plan;

- To receive, review and keep on file such reports and information concerning the Benefits covered by this Plan as the Plan Administrator determines from time to time to be necessary and proper;

- To appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and Benefit consultants;

- To sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;

- To secure independent medical or other advice and require such evidence as deemed necessary to decide any claim or appeal; and

- To maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.

8.3 **Reliance on Participant, Tables, etc.**

The Plan Administrator may rely upon the Participant's direction, information or election as being proper under the Plan and shall not be responsible for any act or failure to act because of a direction or lack of direction by the Participant. The Plan Administrator will also be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions and reports that are furnished by accountants, attorneys, or other experts employed or engaged by the Plan Administrator.

8.4 **Outside Assistance**

The Plan Administrator may employ such counsel, accountants, claims administrators, consultants, actuaries and other person or persons as the Plan Administrator shall deem advisable. The Plan shall pay the compensation of such counsel, accountants, and other person or persons and any other reasonable expenses incurred by the Plan Administrator in the administration of the Plan. Unless otherwise provided in the service agreement, obligations under this Plan shall remain the obligations of the Employer and the Plan Administrator.

8.5 **Insurance Contracts**

The Employer and/or some of the related employers adopting this Plan may have the right to enter into a contract with one or more insurance companies or self-fund for the purposes of providing any Benefits under the Plan; and to replace any of such insurance companies, contracts, or benefits. Any dividends, retroactive rate adjustments or other refunds of any type that may become payable under any such insurance contract shall not be assets of the Plan but shall be the property of, and be retained by, the Employer, to the extent that such amounts are less than aggregate Employer Contributions toward such insurance.

8.6 **Fiduciary Liability**

To the extent permitted by law, the Plan Administrator shall not incur any liability for any acts or for failure to act.

8.7 **Inability to Locate Payee**

If the Plan Administrator is unable to make payment to the Participant or another person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of the Participant or such other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to the Participant or such other person shall be sent to the state's unclaimed property division.

8.8 **Effect of Mistake**

In the event of a mistake as to the eligibility or participation of an Employee, or the allocations made to the Participant's account, or the amount of Benefits paid or to be paid to the Participant or another person, the Plan Administrator shall, to the extent administratively possible and otherwise permissible under Code §125 or the regulations issued thereunder, correct by making the appropriate adjustments of such amounts as necessary to credit the Participant's account or such other person's account or withhold any amount due to the Plan or the Employer from Compensation paid by the Employer.

Section 9
Amendment or Termination of the Plan

9.1 **Permanency**

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in the paragraphs below.

9.2 **Right to Amend**

The Employer reserves the right to merge or consolidate the Plan and to make any amendment or restatement to the Plan from time-to-time, including those which are retroactive in effect. Such amendments may be applicable to any Participant.

Any amendment or restatement shall be deemed to be duly executed when properly promulgated under the requirements of Chapter 536.

9.3 **Right to Terminate**

The Plan Administrator reserves the right to discontinue or terminate the Plan in whole or in part at any time without prejudice. A related employer has the right to discontinue participating in the Plan at the end of each calendar year.

Section 10
General Provisions

10.1 No Contract of Employment

Nothing contained in the Plan shall be construed as a contract of employment with the Employer or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any Employee, with or without cause.

10.2 Compliance with Federal Mandates

To the extent applicable for each Benefit Option, the Plan will provide Benefits in accordance with the requirements of all federal mandates, including USERRA, COBRA, and HIPAA. This Plan shall be construed, operated and administered accordingly, and in the event of any conflict between any part, clause or provision of this Plan and the Code, the provisions of the Code shall be deemed controlling, and any conflicting part, clause or provision of this Plan shall be deemed superseded to the extent of the conflict.

10.3 Verification

The Plan Administrator shall be entitled to require reasonable information to verify any claim or the status of any person as an Employee or Dependent. If the Participant does not supply the requested information within the applicable time limits or provide a release for such information, the Participant will not be entitled to Benefits under the Plan.

10.4 Limitation of Rights

Nothing appearing in or done pursuant to the Plan shall be held or construed:

- To give any person any legal or equitable right against the Employer, any of its employees, or persons connected therewith, except as provided by law; or
- To give any person any legal or equitable right to any assets of the Plan or any related trust, except as expressly provided herein or as provided by law.

10.5 Non-Assignability of Rights

The right of any Participant to receive any reimbursement under this Plan shall not be alienable by the participant by assignment or any other method and shall not be subject to claims by the Participant's creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to the extent required by law.

10.6 Governing Law

This Plan is intended to be construed, and all rights and duties hereunder are governed, in accordance with the laws of the State of Missouri, except to the extent such laws are preempted by any federal law.

10.7 **Severability**

If any provision of the Plan is held invalid or unenforceable, its validity or unenforceability shall not affect any other provision of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

10.8 **Captions**

The captions contained herein are inserted only as a matter of convenience and for reference and in no way define, limit, enlarge or describe the scope or intent of the Plan nor in any way shall affect the Plan or the construction of any provision thereof.

10.9 **Federal Tax Disclaimer**

To ensure compliance with requirements imposed by the IRS to the extent this Plan Document or any Schedule contains advice relating to a federal tax issue, it is not intended or written to be used, and it may not be used, for the purpose of avoiding any penalties that may be imposed on the Participant or any other person or entity under the Internal Revenue Code or promoting, marketing or recommending to another party any transaction or matter addressed herein.

10.10 **No Guarantee of Tax Consequences**

Neither the Plan Administrator nor the Employer make any commitment or guarantee that any amounts paid to the Participant or for the Participant's benefit under this Plan will be excludable from the Participant's gross income for federal, state or local income tax purposes. It shall be the Participant's obligation to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state and local income tax purposes, and to notify the Plan Administrator if the Participant has any reason to believe that such payment is not so excludable.

10.11 **Indemnification of Employer**

If the Participant receives one or more payments or reimbursements under this Plan on a pre-tax Salary Reduction basis, and such payments do not qualify for such treatment under the Code, the Participant shall indemnify and reimburse the Employer for any liability the Employer may incur for failure to withhold federal income taxes, Social Security taxes, or other taxes from such payments or reimbursements.

Section 11
HIPAA Privacy and Security

11.1 Provision of Protected Health Information to Employer

For purposes of this Section, Protected Health Information (PHI) shall have the meaning as defined in HIPAA. PHI means information that is created or received by the Plan and relates to the past, present, or future physical or mental health or condition of a Participant; the provision of health care to a Participant; or the past, present, or future payment for the provision of health care to a Participant; and that identifies the Participant or for which there is a reasonable basis to believe the information can be used to identify the Participant. PHI includes information of persons living or deceased.

Members of the Employer's workforce have access to the individually identifiable health information of Plan Participants for administrative functions of the **Health FSA** and the **Limited Scope Health FSA**, plus any other Benefit Option which might be subject to the privacy and security provisions of HIPAA (hereinafter referred to collectively as the Plan). When this health information is provided to the Employer, it is PHI. HIPAA and its implementing regulations restrict the Employer's ability to use and disclose PHI. The Employer shall have access to PHI from the Plan only as permitted under this Section or as otherwise required or permitted by HIPAA.

11.2 Permitted Disclosure of Enrollment/Disenrollment Information

The Plan Administrator or ASI may disclose to the Employer information on whether the individual is participating in the Plan.

11.3 Permitted Uses and Disclosure of Summary Health Information

The Plan may disclose Summary Health Information to the Employer, provided that the Employer requests the Summary Health Information for the purpose of modifying, amending, or terminating the Plan.

Summary Health Information means information:

- That summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor had provided health benefits under a health plan; and
- From which the required information has been deleted, except that the geographic information need only be aggregated to the level of a five-digit ZIP code.

11.4 Permitted and Required Uses and Disclosure of PHI for Plan Administration Purposes

Unless otherwise permitted by law, and subject to the conditions of disclosure and obtaining written certification described below, the Plan may disclose PHI to the Employer, provided that the Employer uses or discloses such PHI only for Plan Administration Purposes.

Plan Administration Purposes means administration functions performed by the Employer on behalf of the Plan, such as quality assurance, claims processing, auditing, and monitoring. Plan Administration functions do not include functions performed by the Employer in connection with any other benefit or benefit plan of the Employer, and they do not include any employment-related functions.

Notwithstanding the provisions of this Plan to the contrary, in no event shall the Employer be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR § 164.504(f).

11.5 **Conditions of Disclosure for Plan Administration Purposes**

Employer agrees that with respect to any PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) disclosed to it, the Employer shall:

- Not use or further disclose PHI other than as permitted or required by the Plan or as required by law;
- Ensure that any agent, including a subcontractor, to whom it provides PHI received from the Plan agrees to the same restrictions and conditions that apply to the Employer with respect to PHI;
- Not use or disclose the PHI for employment-related actions and decisions;
- Report to the Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;
- Make available PHI to comply with HIPAA's right to access in accordance with 45 CFR §164.524;
- Make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR §164.526;
- Make available the information required to provide an accounting of disclosures in accordance with 45 CFR §164.528;
- Make its internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining compliance with HIPAA's privacy and security requirements;
- If feasible, return or destroy all PHI received from the Plan that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
- Ensure that the adequate separation between the Plan and the Employer (i.e., the "firewall"), required in 45 CFR §504(f)(2)(iii), is satisfied.

The Employer further agrees that if it creates, receives, maintains, or transmits any electronic PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) on behalf of the Plan, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI, and it will ensure that any agents, including subcontractors, to whom it provides such

electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Employer will report to the Plan any security incident of which it becomes aware.

11.6 **Adequate Separation Between Plan and Employer**

The Employer shall designate such employees of the Employer who need access to PHI in order to perform Plan administration functions that the Employer performs for the Plan such as quality assurance, auditing, monitoring, payroll, and appeals. No other persons shall have access to PHI. These specified employees, or classes of employees, shall only have access to and use of PHI to the extent necessary to perform the plan administration functions that the Employer performs for the Plan.

In the event that any of these designated employees do not comply with the provisions of this Section, that employee shall be subject to disciplinary action by the Employer for non-compliance pursuant to the Employer's employee discipline and termination procedures.

The Employer will ensure that the provisions of this Section are supported by reasonable and appropriate security measures to the extent that the designees have access to electronic PHI.

11.7 **Certification of Plan Sponsor**

The Plan shall disclose PHI to the Employer only upon the receipt of a certification by the Employer that the Plan has been amended to incorporate the provisions of 45 CFR §164.504(f)(2)(ii), and that the Employer agrees to the conditions of disclosure set forth under the section entitled *Conditions of Disclosure for Plan Administration Purposes*.

11.8 **Organized Health Care Arrangement**

The Plan Administrator intends the Plan to form part of an Organized Health Care Arrangement along with any other Benefit Option under a covered health plan under 45 CFR §160.103 provided by Employer.

IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing instrument comprising the State of Missouri Cafeteria Plan, State of Missouri has caused this Plan to be executed in its name and on its behalf, on this ____ day of _____, 20___.

State of Missouri

By:_____

Its:_____

Attest:_____

Its:_____

Glossary

Capitalized terms used in the Plan have the following meanings:

Account means the account(s) maintained under this Cafeteria Plan by the Plan Administrator to which allocations of employer contributions are made for each participant as required by this Cafeteria Plan and from which payments, as permitted by this Cafeteria Plan, shall be paid.

Benefit or Benefits means the Benefit Options offered under the Plan.

Benefit Eligible Employee means an Employee eligible for a group health insurance plan sponsored by the Employer. A Benefit Eligible Employee is eligible to enroll in all of the benefit plans under this Plan, including the PPP, the Health FSA, the Limited Scope Health FSA, and/or the DCAP. Eligibility for the different benefit plans under this Plan is also defined in Section 4.1.

Benefit Option means a qualified benefit under Code §125(f) that is offered under this Cafeteria Plan, or an option for coverage under an underlying accident or health plan.

Cafeteria Plan means the State of Missouri Cafeteria Plan as set forth herein and as amended from time to time.

Claims Administrator means Application Software, Inc., dba ASI, dba ASIFlex.

COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

Code means the Internal Revenue Code of 1986, as amended.

Compensation means the wages or salary paid to an Employee by the Employer, determined prior to: any Salary Reduction election under this Plan; any Salary Reduction election under any other cafeteria plan; any compensation reduction under any Code §132(f)(4) plan; and any salary deferral elections under any Code §§401(k), 408(k) or 457(b) Plan or arrangement.

Contribution means the amount contributed to pay for the cost of Benefits as calculated under the Benefit Options.

DCAP means Dependent Care Assistance Program.

Dental and Vision Expenses has the meaning defined in the **Limited Scope Health FSA** Schedule below (see Schedule E).

Dependent means any individual who is a tax dependent of the Participant as defined in Code §§105(b) and 152, with the following exceptions:

- For purposes of accident or health coverage (to the extent funded under the **PPP** and for purposes of the **Health FSA)**:
    - A dependent is defined as in Code §§105(b) and 152, determined without regard to §152 subsections (b)(1), (b)(2), and (d)(1)(B) thereof; and

- Any child whom IRS Rev. Proc. 2008-48 applies (regarding certain children of divorced or separated parents who receive more than half of their support for the calendar year from one or both parents and are in the custody of one or both parents for more than half of the calendar year) is treated as a dependent of both parents; and

- For purposes of the **DCAP**, a dependent means a Qualifying Individual.

Notwithstanding the foregoing, the **Health FSA** Component will provide Benefits in accordance with the applicable requirements of any QMCSO, even if the child does not meet the definition of "Dependent."

Dental Plan means the group dental insurance benefit plan sponsored by the Employer.

Dependent Care Assistance Program means the dependent care assistance program component established by Employer under the Plan. It allows the Participant to use pre-tax dollars to pay for the care of the Participant's eligible Dependents while the Participant is at work.

Dependent Care Expenses has the meaning described in the **DCAP** Schedule below (see Schedule D).

Earned Income means all income derived from wages, salaries, tips, self-employment, and other compensation (such as disability or wage continuation Benefits), but only if such amounts are includible in gross income for the taxable year. Earned income does not include: any amounts received pursuant to any **DCAP** established under Code §129; or any other amounts excluded from earned income under Code §32(c)(2), such as amounts received under a pension or annuity, or pursuant to workers' compensation.

Effective Date of this Plan shall be January 1,2016.

Employee means any person employed by the employer. An Employee is eligible to enroll in the DCAP. Eligibility for the different benefit plans under this Plan is also defined in Section 4.1.

The following classes of employees cannot participate in the State of Missouri Cafeteria Plan:

- Leased employees (as defined by §414 (n) of the Code);

- Contract workers and independent contractors; and

- Individuals paid by a temporary or other employment or staffing agency.

Employer means State of Missouri including any agency, or department of the State of Missouri other than the University of Missouri and Southeast Missouri State University.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

FMLA means the Family and Medical Leave Act of 1993, as amended.

Grace Period means a period of time as specified by the Employer in which qualified Medical Care Expenses and/or Dependent Care Expenses incurred during the period may be paid or reimbursed from benefits or contributions remaining unused at the end of the immediately preceding Plan year from

each respective account. Such Grace Period shall not extend beyond the fifteenth day of the third calendar month after the end of the immediately preceding Plan Year to which the Grace Period relates.

HDHP means High Deductible Health Plan.

Health Care Expenses has the meaning defined in the **Health FSA** Schedule below (see Schedule B).

Health Flexible Spending Account means the health flexible spending account component established by the Employer under the Plan. It allows a Participant to use pre-tax dollars to pay for most health and dental expenses not reimbursed under other programs.

Health FSA means Health Flexible Spending Account.

Health Plan means the group health insurance benefit plan sponsored by the Employer.

Health Savings Account means the savings account Benefit Option established by the Employer's designee under this Plan.

High Deductible Health Plan means the high deductible health plan offered by the Employer that is intended to qualify as a high deductible health plan under Code §223(c)(2), as described in materials provided separately by the Employer.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended.

HSA means a Health Savings Account established under Code §223. Such arrangements are individual trusts or custodial accounts, each separately established and maintained by an Employee with a qualified trustee/custodian.

HSA Contribution Benefit means the election to allow an Employee to receive HSA Contributions on a pre-tax, Salary Reduction basis and such Employer Contributions are excludable from the HSA Employee's income.

HSA Employee means an Employee covered under a qualifying High Deductible Health Plan (HDHP) (as defined by IRC §223). In order to receive Employer **HSA Contribution Benefit**, the Employee must certify that he or she: cannot be claimed as another person's tax dependent; is not entitled to Medicare Benefits, and does not have any health coverage other than HDHP coverage.

Limited Scope Health Flexible Spending Account means the limited scope health flexible spending account component established by the Employer under the Plan. It allows a Participant to use pre-tax dollars to pay for dental and vision expenses not reimbursed under other programs.

Limited Scope Health FSA means Limited Scope Health Flexible Spending Account.

Office of Administration means the Office of Administration of the State of Missouri.

Open Enrollment Period with respect to a Plan Year means a period as described by the Plan Administrator preceding the Plan Year during which Participants may make Benefit elections for the Plan Year.

Participant means a person who is an Employee and who is participating in this Plan in accordance with the provisions of the Eligibility and Participation Section. Participants include: (a) those that elect to receive Benefits under this Plan, and enroll for Salary Reductions to pay for such Benefits; and (b) those that elect instead to receive their full salary in cash and have not elected the **Health FSA** or **DCAP**.

Period of Coverage means the Plan Year, with the following exceptions: for Employees who first become eligible to participate, it shall mean the portion of the Plan Year following the date participation commences, as described in the Eligibility and Participation Section; and for Employees who terminate participation, it shall mean the portion of the Plan Year prior to the date participation terminates, as described in the Eligibility and Participation Section.

PHI means Protected Health Information.

Plan means the State of Missouri Cafeteria Plan, as set forth herein and as amended from time to time.

Plan Administrator means the Office of Administration of its duly appointed designee to administer this Cafeteria Plan.

Plan Year means the twelve-month period ending December 31.

PPP means the Premium Payment Plan.

Premium Payment Plan means the Benefit Option in which an Employee can elect to participate and have Contributions for the employer-sponsored Health Plan, Dental Plan, or Vision Plan paid on a pre-tax basis.

Protected Health Information (PHI) means information that is created or received by State of Missouri Cafeteria Plan and relates to the past, present, or future physical, mental health or condition of a Participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a Participant; and that identifies the Participant or for which there is a reasonable basis to believe the information can be used to identify the Participant. Protected health information includes information of persons living or deceased.

QMCSO means a Qualified Medical Child Support Order, as defined in ERISA §609(a).

Qualifying Dependent Care Services has the meaning described in the **DCAP** Schedule below (see Schedule D).

Qualifying Individual means:

- A tax dependent of the Participant as defined in Code §152 who is under the age of 13 and who is the Participant's qualifying child as defined in Code § 152(a)(1);

- A tax dependent of the Participant as defined in Code §152, but determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof, who is physically or mentally incapable of self-care and who has the same principal place of abode as the Participant for more than half of the year; or

- A Participant's Spouse who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the year.

Notwithstanding the foregoing, in the case of divorced or separated parents, a Qualifying Individual who is a child shall, as provided in Code §21(e)(5), be treated as a Qualifying Individual of the custodial parent (within the meaning of Code §152(e)) and shall not be treated as a Qualifying Individual with respect to the non-custodial parent.

Related Employer means any employer affiliated with State of Missouri that, under Code §414(b), (c), or (m), is treated as a single employer with State of Missouri for purposes of Code §125(g)(4), and which is listed in Appendix B.

Salary Reduction means the amount by which the Participant's Compensation is reduced and applied by the Employer under this Plan to pay for one or more of the Benefit Options.

Salary Reduction Agreement means the agreement, form(s) or Internet web site, which Employees use to elect one or more Benefit Options. The agreement, forms and/or internet web site spell out the procedures used for allowing an Employee to participate in this Plan and will allow the Employee to elect Salary Reductions to pay for any Benefit Options offered under this Plan.

Spouse means an individual who is legally married to a Participant as determined under applicable state law. Notwithstanding the above, for purposes of the **DCAP**, the term "Spouse" shall not include: an individual legally separated from the Participant under a divorce or separate maintenance decree; or an individual who, although married to the Participant, files a separate federal income tax return, maintains a principal residence separate from the Participant during the last six months of the taxable year, and does not furnish more than half of the cost of maintaining the principal place of abode of the Participant.

USERRA means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

Vision Plan means the group vision insurance benefit plan sponsored by the Employer.

Waive coverage means to formally opt-out of participation in the **PPP** in writing or online.

Appendix A
Exclusions—Medical Expenses That Are Not Reimbursable From the Health FSA and the Limited Scope Health FSA

The Plan Document contains the general rules governing what expenses are reimbursable under the **Health FSA** and the **Limited Scope Health FSA**. This Appendix A, as referenced in the Plan Document, specifies certain expenses that are excluded under this Plan with respect to reimbursement from the **Health FSA** and the **Limited Scope Health FSA** -- that is, expenses that are *not* reimbursable, even if such expenses meet the definition of "medical care" under Code §§213(d) and 106(f) and may otherwise be reimbursable under the regulations governing health flexible spending accounts:

- Health insurance premiums for any other plan (including a plan sponsored by the Employer).
- Long-term care services.
- Cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease. "Cosmetic surgery" means any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.
- The salary expense of a nurse to care for a healthy newborn at home.
- Funeral and burial expenses.
- Household and domestic help (even if recommended by a qualified physician due to an Employee's or Dependent's inability to perform physical housework).
- Custodial care.
- Costs for sending a problem child to a special school for Benefits that the child may receive from the course of study and disciplinary methods.
- Social activities, such as dance lessons (even if recommended by a physician for general health improvement).
- Bottled water.
- Cosmetics, toiletries, toothpaste, etc.
- Uniforms or special clothing, such as maternity clothing.
- Automobile insurance premiums.
- Over-the-counter medications and drugs, excluding insulin, without proof of a valid prescription.
- Marijuana and other controlled substances that are in violation of federal laws, even if prescribed by a physician.

- Any item that does not constitute "medical care" as defined under Code §§213(d) and 106(f).

- Any item that is not reimbursable under Code §§213(d) and 106(f) due to the rules in Prop. Treas. Reg. §1.125-2, Q-7(b)(4) or other applicable regulations.

Appendix B
Related Employers That Have Adopted This Plan

With the Approval of State of Missouri.

The following Related Employers have adopted this plan:

- The Office of Administration
- The Department of Agriculture
- The Department of Conservation
- The Department of Corrections
- The Department of Economic Development
- The Department of Elementary and Secondary Education
- The Department of Health and Senior Services
- The Department of Higher Education
- The Department of Insurance, Financial Institutions and Professional Registration
- The Department of Labor and Industrial Relations
- The Department of Mental Health
- The Department of Natural Resources
- The Department of Public Safety
- The Department of Revenue
- The Department of Social Services
- The Department of Transportation
- The Office of the Attorney General
- The Office of the Governor
- The Office of the Lieutenant Governor
- The Office of the State Auditor
- The Office of the Secretary of State
- The Office of the Treasurer
- The Missouri House of Representatives
- The Missouri Senate
- The Missouri Consolidated Health Care Plan
- The Missouri State Employees' Retirement System
- The Supreme Court
- Harris-Stowe State University Board of Regents
- Lincoln University Board of Curators
- Missouri State University
- Northwest Missouri State University Board of Regents
- Truman State University Board of Governors
- University of Central Missouri Board of Governors

Employer means State of Missouri including any agency, or department of the State of Missouri other than the University of Missouri, Southeast Missouri State University, Missouri Western University, and Missouri Southern State University.

Schedule A
Premium Payment Plan

Unless otherwise specified, terms capitalized in this Schedule A shall have the same meaning as the defined terms in the Plan Document to which this Schedule is attached.

A.1 Benefits

If the Employee is an enrolled participant in the Health Plan, Dental Plan, and/or Vision Plan and timely submits an executed Salary Reduction Agreement, the Employee can either:

- Option A: Elect Benefits under the **PPP** by electing to contribute his or her share for the Health Plan on a pre-tax basis; or

- Option B: Elect no Benefits under the **PPP** and to contribute his or her share, if any, for the Health Plan with after-tax deductions outside of this Plan.

If the Employee is an enrolled participant in the Health Plan, Dental Plan, and/or Vision Plan and does not timely submit an executed Salary Reduction Agreement, the Employee will be deemed to have elected Option A.

Benefits elected under Option A will be funded by the Participant's Contributions as provided in the Eligibility and Participation section in the Plan Document.

To determine when a Salary Reduction Agreement will be considered timely submitted, see the Method and Timing of Elections section in the Plan Document.

Unless an exception applies, as described in the Irrevocability of Elections and Exceptions section in the Plan Document, such election is irrevocable for the duration of the Period of Coverage to which it relates.

A.2 Benefit Contributions

The annual Contribution for the **PPP** is equal to the amount as set by the Employer, which may or may not be the same amount charged under the Health Plan, Dental Plan, and/or Vision Plan.

A.3 Medical Benefits Provided Under the Health Plan, Dental Plan, or Vision Plan

Medical benefits will be provided by the applicable Health Plan, Dental Plan, or Vision Plan, not this Plan. The types and amounts of medical benefits, the requirements for participation, and other terms and conditions of coverage and benefits of the Health Plan, Dental Plan and/or Vision Plan are set forth in the documents relating to that plan. No changes can be made under this Plan with respect to such Health Plan, Dental Plan, or Vision Plan if such changes are not permitted under the applicable Health Plan, Dental Plan, or Vision Plan.

All claims to receive benefits under the Health Plan, Dental Plan, or Vision Plan shall be subject to and governed by the terms and conditions of the applicable Health Plan, Dental Plan, or Vision Plan and the rules, regulations, policies and procedures adopted in accordance therewith, as may be amended from time to time.

A.4 COBRA

To the extent required by COBRA, the Participant, Spouse and Dependent, as applicable, whose coverage terminates under the Health Plan, Dental Plan, and/or Vision Plan because of a COBRA qualifying event and who is a qualified beneficiary as defined under COBRA, shall be given the opportunity to continue the same coverage that the Participant, Spouse or Dependent had under the Health Plan, Dental Plan, and/or Vision Plan the day before the qualifying event for the periods prescribed by COBRA, on a self-pay basis. Such continuation coverage shall be subject to all conditions and limitations under COBRA.

Schedule B
Health Flexible Spending Account

Unless otherwise specified, terms capitalized in this Schedule B shall have the same meaning as the defined terms in the Plan Document to which this Schedule is attached.

B.1 Benefits

ABenefit Eligible Employee not enrolled in the **HSA Contribution Benefit**, can elect to participate in the **Health FSA** by electing to receive Benefits in the form of reimbursements for Health Care Expenses. If elected, the Benefit Option will be funded by Participant Contributions on a pre-tax Salary Reduction basis as provided in the Employer and Participant Contributions section in the Plan Document.

Unless an exception applies as described in the Irrevocability of Elections and Exceptions section, such election is irrevocable for the duration of the Period of Coverage to which it relates.

The **HSA Contribution Benefit** cannot be elected with the **Health FSA**. In addition, a Participant who has an election for the **Health FSA** that is in effect on the last day of a Plan Year cannot elect the **HSA Contribution Benefit** for any of the first three calendar months following the close of that Plan Year, unless the balance in the Participant's **Health FSA** is $0 as of the last day of that Plan Year. For this purpose, a Participant's **Health FSA** balance is determined on a cash basis – that is, without regard to any claims that have been incurred but have not yet been reimbursed (whether or not such claims have been submitted).

B.2 Benefit Contributions

The annual Contribution for a Participant's **Health FSA** is equal to the annual Benefit amount elected by the Participant.

B.3 Eligible Health Care Expenses

Under the **Health FSA**, a Participant may receive reimbursement for Health Care Expenses incurred during the Period of Coverage for which an election is in force.

- **Incurred**. A Health Care Expense is incurred at the time the medical care or service giving rise to the expense is provided, and not when the Participant is formally billed for, is charged for, or pays for the medical care.

- **Health Care Expenses**. Health Care Expenses means expenses incurred by a Participant, or the Participant's Spouse or Dependent(s) covered under the **Health FSA** for medical care, as defined in Code §§213(d) and 106(f), other than expenses that are excluded by this Plan, but only to the extent that the Participant or other person incurring the expense is not reimbursed through any other accident or health plan.

- **Expenses That Are Not Reimbursable.** Insurance premiums are not reimbursable from the **Health FSA**. Other expenses that are not reimbursable are listed in Appendix A to the Plan Document.

B.4 Maximum and Minimum Benefits

- **Maximum Reimbursement Available; Uniform Coverage Rule.** The maximum dollar amount elected by the Participant for reimbursement of Health Care Expenses incurred during a Period of Coverage, reduced by prior reimbursements during the Period of Coverage, shall be available at all times during the Period of Coverage, regardless of the actual amounts credited to the Participant's **Health FSA**. Notwithstanding the foregoing, no reimbursements will be available for Health Care Expenses incurred after coverage under this Plan has terminated, unless the Participant has elected COBRA as provided below, or is entitled to submit expenses incurred during a Grace Period as provided below.

- **Payment** shall be made to the Participant in cash as reimbursement for Health Care Expenses incurred during the Period of Coverage for which the Participant's election is effective, or during a Grace Period as provided below, provided that the other requirements of this Section have been satisfied.

- **Maximum Dollar Limit.** The maximum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Health Care Expenses incurred in any Period of Coverage shall be no greater than the maximum allowed under federal regulations and as set forth in annual open enrollment materials for the Plan Year. Reimbursements due for Health Care Expenses incurred by the Participant's Spouse or Dependent(s) shall be charged against the Participant's **Health FSA.**

- **Changes**. For subsequent Plan Years, the maximum dollar limit may be changed by the Plan Administrator and shall be communicated to Employees through the Salary Reduction Agreement or another document.

- **No Proration**. If a Participant enters the Plan mid-year or wishes to increase his or her election mid-year as permitted under this Plan, then the Participant may elect coverage or increase coverage respectively, up to the maximum annual benefit amount stated above. The maximum annual benefit amount will not be prorated.

- **Effect on Maximum Benefits If Election Change Permitted**. Any change in an election affecting annual Contributions to the **Health FSA** will also change the maximum reimbursement benefits for the balance of the Period of Coverage commencing on the election change effective date. Such maximum reimbursement benefits for the balance of the Period of Coverage shall be calculated by adding:

  - The aggregate Contribution for the period prior to such election change; to

  - The total Contribution for the remainder of such Period of Coverage to the **Health FSA**; reduced by

  - All reimbursements made during the entire Period of Coverage.

- **FMLA Leave.** Any change in an election for FMLA leave will change the maximum reimbursement benefits in accordance with FMLA or the regulations governing cafeteria plans.

- **Monthly Limits on Reimbursing OTC Drugs.** Only reasonable quantities of over-the-counter (OTC) drugs or medicines of the same kind may be reimbursed from a Participant's **Health FSA** in a single calendar month, even assuming that the drug otherwise meets the requirements of this Section, including that it is for medical care under Code §§213(d) and 106(f). Stockpiling is not permitted.

B.5 Establishment of Account

The Plan Administrator will establish and maintain a **Health FSA** with respect to each Participant who has elected to participate in the **Health FSA**, but will not create a separate fund or otherwise segregate assets for this purpose. The account established hereto will merely be a record keeping account with the purpose of keeping track of Contributions and determining forfeitures.

- **Crediting of Accounts**. A Participant's **Health FSA** will be credited following each Salary Reduction actually made during each Period of Coverage with an amount equal to the Salary Reduction actually made.

- **Debiting of Accounts**. A Participant's **Health FSA** will be debited during each Period of Coverage for any reimbursement of Health Care Expenses incurred during the Period of Coverage or during a Grace Period as provided below.

- **Available Amount Not Based on Credited Amount.** The amount available for reimbursement of Health Care Expenses is the amount as calculated according to the "Maximum Reimbursement Available" paragraph of this Section above. It is not based on the amount credited to the **Health FSA** at a particular point in time.

B.6 Use It or Lose It Rule; Forfeiture Of Account Balance

- **Use It or Lose It Rule.** Except for expenses incurred during an applicable Grace Period, if any balance remains in the Participant's **Health FSA** for a Period of Coverage after all reimbursements have been made for the Period of Coverage, then such balance shall not be carried over to reimburse the Participant for Health Care Expenses incurred during a subsequent Plan Year. The Participant shall forfeit all rights with respect to such balance. The Grace Period shall begin immediately following the end of the Plan Year and terminate on the 15th day of the third calendar month after the end of the Plan Year. Claims must be submitted on or before April 15th of the year immediately following the close of the plan year in which the expenses were incurred.

- **Use of Forfeitures**. All forfeitures under this Plan shall be used as follows:

  - First, to offset any losses experienced by Employer during the Plan Year as a result of making reimbursements with respect to any Participant in excess of the Contributions paid by such Participant through Salary Reductions;

  - Second, to reduce the cost of administering the **Health FSA** during the Plan Year or the subsequent Plan Year (all such administrative costs shall be documented by the Plan Administrator); and

- To provide increased Benefits or compensation to all Participants in subsequent years in any weighted or uniform fashion that the Plan Administrator deems appropriate, consistent with applicable regulations.

- **Unclaimed Benefits.** Benefit payments that remain unclaimed by the close of the Plan Year following the Period of Coverage in which the Health Care Expense was incurred shall be forfeited and applied as described above.

B.7 Grace Period

- **Special Rules for Claims Incurred During a Grace Period**. The Employer has the discretion to establish a grace period following the end of the Plan Year, as follows:

  - An individual may be reimbursed for Health Care Expenses incurred during a Grace Period from amounts remaining in his or her **Health FSA** Account at the end of the Plan Year to which that Grace Period relates ("Prior Plan Year **Health FSA** Amounts") if the individual is either:

    - A qualified beneficiary as defined under COBRA who has COBRA coverage under the **Health FSA** Benefit Option on the last day of that Plan Year; or

    - A Participant with **Health FSA** coverage that is in effect on the last day of that Plan Year. As a clarification: A participant who terminates coverage before the last day of the Plan Year will not be reimbursed for expenses incurred during the Grace Period associated with that Plan Year. A terminated participant may only be reimbursed for expenses incurred during the participant's period of coverage (Health FSA participants' coverage ceases at the end of the month following the last contribution).

  - The Grace Period shall begin immediately following the end of the Plan Year and terminate on the 15th day of the third calendar month after the end of the Plan Year.

  - Prior Plan Year **Health FSA** Amounts may not be cashed out or converted to any other taxable or non-taxable Benefit Option. For example, Prior Plan Year **Health FSA** Amounts may not be used to reimburse Dependent Care Expenses.

  - Health Care Expenses incurred during a Grace Period and approved for reimbursement will be reimbursed first from any available Prior Plan Year **Health FSA** Amounts and then from any amounts that are available to reimburse expenses that are incurred during the current Plan Year. An individual's Prior Plan Year **Health FSA** Amounts will be debited for any reimbursement of Health Care Expenses incurred during the Grace Period that is made from such Prior Plan Year **Health FSA** Amounts.

  - Claims for reimbursement of Health Care Expenses incurred during a Grace Period must be submitted no later than April 15th following the close of the Plan Year to which the Grace Period relates in order to be reimbursed from Prior Plan Year **Health FSA** Amounts. Any Prior Plan Year **Health FSA** Amounts that remain after all reimbursements have been made for the Plan Year and its related Grace Period shall not be carried over to reimburse the Participant for expenses incurred in any subsequent period. The Participant will forfeit all

rights with respect to these amounts, which will be subject to the Plan's provisions regarding forfeitures.

B.8 Reimbursement Procedure

- **Timing**. Within 30 days after receipt by the Plan Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Health Care Expenses, or the Plan Administrator will notify the Participant that a claim has been denied. This time period may be extended for an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension, and will allow the Participant 45 days from receipt of the written notice in which to complete an incomplete reimbursement claim.

- **Claims Substantiation**. A Participant who has elected to receive Health Care Reimbursement Benefits for a Period of Coverage may apply for reimbursement by submitting an application to the Plan Administrator by no later than the date set by the Plan Administrator each year, setting forth:

    - The person or persons on whose behalf Health Care Expenses have been incurred;
    - The nature and date of the expenses incurred;
    - The amount of the requested reimbursement;
    - A statement that such expenses have not otherwise been reimbursed and the Participant will not seek reimbursement through any other source; and
    - Other such details about the expenses that may be requested by the Plan Administrator in the reimbursement request form or otherwise.

  The application shall be accompanied by bills, invoices, or other statements from an independent third party showing that the Health Care Expenses have been incurred and the amounts of such expenses, together with any additional documentation that the Plan Administrator may request.

- **Claims Denied.** For appeal of claims that are denied, see the Appeals Procedure in the Plan Document.

- **Claims Ordering; No Reprocessing.** All claims for reimbursement will be paid in the order in which they are approved. Once paid, a claim will not be reprocessed or otherwise recharacterized solely for the purpose of paying it from amounts attributable to a different Plan Year or Period of Coverage.

B.9 Reimbursements After Termination; Limited COBRA Continuation

The Participant will not be able to receive reimbursements for Health Care Expenses incurred after participation terminates. However, except for expenses incurred during an appropriate Grace Period, such Participant, or the Participant's estate, may claim reimbursement for any Health Care Expenses

incurred during the Period of Coverage prior to termination, provided that the Participant, or the Participant's estate, files a claim by the date established in the Reimbursement Procedure paragraphs above following the close of the Plan Year in which the Health Care Expense was incurred.

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and such Participant's Spouse and Dependent(s), whose coverage terminates under the **Health FSA** because of a COBRA qualifying event, shall be given the opportunity to continue the same coverage that the Participant had under the **Health FSA** the day before the qualifying event, subject to all conditions and limitations under COBRA. The Contributions for such continuation coverage will be equal to the cost of providing the same coverage to an active employee taking into account all costs incurred by the Employee and the Employer plus a 2% administration fee. Specifically, an individual will be eligible for COBRA continuation coverage only if the Participant's remaining available amount is greater than the Participant's remaining Contribution payments at the time of the qualifying event, taking into account all claims submitted before the date of the qualifying event. Such individual will be notified if the individual is eligible for COBRA continuation coverage.

If COBRA is elected, COBRA coverage will be subject to the most current COBRA rules. COBRA will be available only for the remainder of the Plan Year in which the qualifying event occurs. Such COBRA coverage for the **Health FSA** will cease at the end of the Plan Year, except for expenses incurred during an appropriate Grace Period, and cannot be continued for the next Plan Year. Coverage may terminate sooner if the Contributions for a Period of Coverage are not received by the due date established by the Plan Administrator for that Period of Coverage. Continuation coverage is only granted after the Plan Administrator has received the Contributions for that period of coverage.

Contributions for coverage for **Health FSA** Benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation, as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year, where COBRA coverage arises either:

- Because the Employee ceases to be eligible because of a reduction of hours; or
- Because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage.

For all other individuals (for example, Employees who cease to be eligible because of retirement, termination of employment, or layoff), Contributions for COBRA coverage for **Health FSA** Benefits shall be paid on an after-tax basis, unless permitted otherwise by the Plan Administrator, in its discretion and on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year.

B.10 Qualified Reservist Distribution

If a Participant meets all of the following conditions, the Participant may elect to receive a qualified reservist distribution from the **Health FSA**:

- The Participant's Contributions to the **Health FSA** for the Plan Year as of the date the qualified reservist distribution is requested exceeds the reimbursements the Participant has received from the **Health FSA** for the Plan Year as of that date.

- The Participant is ordered or called to active military duty for a period of at least 180 days or for an indefinite period by reason of being a member of the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, or the Reserve Corps of the Public Health Service.

- The Participant has provided the Plan Administrator with a copy of the order or call to active duty. An order or call to active duty of less than 180 days' duration must be supplemented by subsequent calls or orders to reach a total of 180 or more days.

- The Participant is ordered or called to active military duty on or after April 1, 2009, or the Participant's period of active duty begins before April 1, 2009 and continues on or after the date.

- During the period beginning on the date of the Participant's order or call to active duty and ending on the last day of the Plan Year during which the order or call occurred, the Participant submits a qualified reservist distribution election form to the Plan Administrator.

Amount of Qualified Reservist Distribution. If the above conditions are met, the Participant will receive a distribution from the **Health FSA** equal to his or her Contributions to the **Health FSA** for the Plan Year as of the date of the distribution request, minus any reimbursements received for the Plan Year as of that date.

No Reimbursement for Expenses Incurred After Distribution Request. Once a Participant requests a qualified reservist distribution, the Participant forfeits the right to receive reimbursements for Health Care Expenses incurred during the period that begins on the date of the distribution request and ends on the last day of the Plan Year. The Participant may, however, continue to submit claims for Health Care Expenses that were incurred before the date of the distribution request (even if the claims are submitted after the date of the qualified reservist distribution), so long as the total dollar amount of the claims does not exceed the amount of the **Health FSA** election for the Plan Year, minus the sum of the qualified reservist distribution and the prior **Health FSA** reimbursements for the Plan Year.

Tax Treatment of a Qualified Reservist Distribution. If the Participant receives a qualified reservist distribution, it will be included in his or her gross income and will be reported as wages on the Participant's Form W-2 for the year in which it is paid.

B.11 Named Fiduciary

The Plan Administrator is the Named Fiduciary for the **Health FSA**.

B.12 Coordination of Benefits

Health FSAs are intended to pay Benefits solely for Health Care Expenses not previously reimbursed or reimbursable elsewhere. Accordingly, the **Health FSA** shall not be considered a group health plan for coordination of benefits purposes, and the **Health FSA** shall not be taken into account when determining benefits payable under any other plan.

Schedule C
HSA Contribution Benefit

Unless otherwise specified, terms capitalized in this Schedule C shall have the same meaning as the defined terms in the Plan Document to which this Schedule is attached.

C.1 HSA Tax Advantages

An Employee eligible to participate in the HSA may elect to participate in the **HSA Contribution Benefit** by electing to pay the Contributions on a pre-tax Salary Reduction basis to the Employee's Health Savings Account (HSA) established and maintained outside the Plan by a trustee/custodian to which the Employer can forward Contributions to be deposited. This funding feature constitutes the **HSA Contribution Benefit.**

As described more fully herein, such election can be increased, decreased or revoked prospectively at any time during the Plan Year, effective no later than the first day of the next calendar month following the date that the election change was filed.

C.2 Establishing an HSA

For administrative convenience, the Employer may choose to make Contributions for Employees to HSAs established at a bank selected by the Employer or limit the number of HSA providers to whom it will forward Contributions-such a list is not an endorsement of any HSA provider. The selected bank will be an authorized HSA trustee. The forms necessary to establish an HSA at the selected bank will be provided to Participants. Participants are responsible for managing their own **HSA**, including choosing how **HSA** funds are invested and following the rules of the selected bank and the IRS. Once the Employer Contributions have been deposited in a Participant's **HSA Contribution Benefit**, the Participant has a non-forfeitable interest in the funds and is free to request a distribution of the funds or to move them to another **HSA** provider, to the extent permitted by law.

The HSA Contribution Benefit cannot be elected with the **Health FSA**. In addition, a Participant who has an election for the **Health FSA** that is in effect on the last day of a Plan Year cannot elect the **HSA Contribution Benefit** for any of the first three calendar months following the close of that Plan Year, unless the balance in the Participant's **Health FSA** is $0 as of the last day of the Plan Year. For this purpose, a Participant's **Health FSA** balance is determined on a cash basis -- that is, without regard to claims that have been incurred but have not yet been reimbursed (whether or not such claims have been submitted).

C.3 Certification of HSA Contribution Benefit Eligibility

To be eligible for the **HSA Contribution Benefit**, an HSA Employee must certify to the Employer that he or she is eligible for an HSA contribution and does not have any non-HDHP coverage. A married Participant must also certify that his or her Spouse does not have any non-HDHP coverage. A Participant is required to notify the Employer immediately if there are any changes in the information contained in the certification. Failure to provide accurate and updated information could cause the **HSA Contribution Benefit** to be included in a Participant's gross income and may also be subject to excise tax.

C.4 Maximum Contribution

The annual Contribution for a Participant's **HSA Contribution Benefit** is equal to the annual Benefit amount elected by the Participant. In no event shall the amount elected exceed the statutory maximum amount for HSA contributions applicable to the Participant's HDHP coverage option for the calendar year in which the Contribution is made. (The maximum contribution for each Plan Year is set forth in the annual open enrollment materials).

Participants age 55 or older may make an additional catch-up Contribution of $1,000 per year.

In addition, the maximum annual Contribution shall be:

- Reduced by any matching or other Employer Contribution made on the Participant's behalf; and
- Prorated for the number of months in which the Participant is an HSA Eligible Individual.

C.5 Recording Contributions for HSA

The Plan Administrator will maintain records to keep track of Contributions an Employee makes via pre-tax Salary Reductions to his or her HSA, but it will not create a separate fund or otherwise segregate assets for this purpose. The Employer has no authority or control over the funds deposited in an HSA.

C.6 Distributions from HSA Contribution Benefit

Distribution from an **HSA Contribution Benefit** will be tax-free if the distribution is for expenses incurred for a Participant's health care as defined in IRC §213(d) or the health care of a Participant's legal Spouse or tax Dependents. Expenses must have been incurred after the establishment of the **HSA Contribution Benefit** to be tax-free. **HSA Contribution Benefit** distributions used to pay insurance premiums will not be tax-free unless they are used for COBRA coverage, qualified long-term care insurance, health insurance maintained while the individual is receiving unemployment compensation under federal or state law, or health insurance for an individual age 65 or over, other than a Medicare supplemental policy.

C.7 Tax Treatment of HSA Contributions and Distributions

The tax treatment of the HSA is governed by Code §223.

C.8 Reporting Issues

Each Participant will be responsible for reporting Contributions made to his or her **HSA Contribution Benefit** and for reporting distributions from the HSA. A Participant is also responsible for reporting whether or not HSA distributions were used for qualified health expenses or whether the distributions were taxable. A Participant should maintain records sufficient to demonstrate whether or not distributions were taxable.

C.9 Voluntary Participation

Participation in the **HSA Contribution Benefit** is entirely voluntary and may be terminated at any time by notifying the Employer. Although the Employer expects to continue this **HSA Contribution Benefit**

indefinitely, it has the right to amend or terminate **HSA Contribution Benefit** at any time and for any reason. It is also possible that changes to the program will be necessary or advisable as a result of future changes in state or federal tax laws.

C.10 HSA Not Intended to be an ERISA Plan

The **HSA Contribution Benefit** under this Plan consist solely of the ability to make Contributions to the HSA on a pre-tax Salary Reduction basis. Terms and conditions of coverage and Benefits will be provided by and are set forth in the HSA, not this Plan. The terms and conditions of each Participant's HSA trust or custodial account are described in the HSA trust or custodial agreement provided by the applicable trustee/custodian to each electing Participant and are not a part of this Plan.

The HSA is not an employer-sponsored employee benefits plan. It is a savings account that is established and maintained by an HSA trustee/custodian outside this Plan to be used primarily for reimbursement of "qualified eligible health expenses" as set forth in Code §223(d)(2). The Employer has no authority or control over the funds deposited in a HSA. Even though this Plan may allow pre-tax Salary Reduction contributions to an HSA, the HSA is not intended to be an ERISA benefit plan sponsored or maintained by the Employer.

Schedule D
Dependent Care Assistance Program

Unless otherwise specified, terms capitalized in this Schedule D shall have the same meaning as the defined terms in the Plan Document to which this Schedule is attached.

D.1 Benefits

An Employee can elect to participate in the **DCAP** to receive Benefits in the form of reimbursements for Dependent Care Expenses. If elected, the Benefit Option will be funded by the Participant on a pre-tax Salary Reduction basis. Unless an exception applies, as described in the Irrevocability of Elections and Exceptions section above, such election is irrevocable for the duration of the Period of Coverage to which it relates.

D.2 Benefit Contributions

The annual Contribution for a Participant's **DCAP** Benefits is equal to the annual Benefit amount elected by the Participant, subject to the Maximum Benefits paragraph below.

D.3 Eligible Dependent Care Expenses

Under the **DCAP**, a Participant may receive reimbursement for Dependent Care Expenses incurred during the Period of Coverage or Grace Period for which an election is in force.

- **Incurred.** A Dependent Care Expense is "incurred" at the time the Qualifying Dependent Care Service giving rise to the expense is provided, and not when the Participant is formally billed for, is charged for, or pays for the Qualifying Dependent Care Services.

- **Dependent Care Expenses.** Dependent Care Expenses means expenses that are considered to be:

  - Employment-related expenses under Code §21(b)(2) relating to expenses for the care of a Qualifying Individual necessary for gainful employment of the Employee and Spouse; and

  - Expenses for incidental household services, if incurred by the Employee to obtain Qualifying Dependent Care Services, but only to the extent that the Participant or other person incurring the expense is not reimbursed for the expense through any other Plan.

  If only a portion of a Dependent Care Expense has been reimbursed elsewhere, the **DCAP** can reimburse the remaining portion of such Expense if it otherwise meets the requirements of this Schedule.

- **Qualifying Individual.** A Qualifying Individual is:

  - A tax dependent of the Participant as defined in Code §152 who is under the age of 13 and who is the Participant's qualifying child as defined in Code §152(a)(1);

- A tax dependent of the Participant as defined in Code §152, who is physically or mentally incapable of self-care and who has the same principal place of abode as the Participant for more than half of the year; or

- A Participant's Spouse, as defined in Code §152, who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the year.

In the case of divorced or separated parents, a child shall be treated as a Qualifying Individual of the custodial parent within the meaning of Code §152(e).

- **Qualifying Dependent Care Services.** Qualifying Dependent Care Services means services that both:

  - Relate to the care of a Qualifying Individual that enable the Participant and Spouse to remain gainfully employed after the date of participation in the **DCAP** and during the Period of Coverage; and

  - Are performed:

    - In the Participant's home; or

    - Outside the Participant's home for:

      - The care of a Participant's Dependent who is under age 13; or

      - The care of any other Qualifying Individual who regularly spends at least 8 hours per day in the Participant's household.

In addition, if the expenses are incurred for services provided by a facility that provides care for more than six individuals not residing at the facility and that receives a fee, payment or grant for such services, then the facility must comply with all applicable state and local laws and regulations.

- **Exclusions.** Dependent Care Expenses do not include amounts paid to or for:

  - An individual with respect to whom a personal exemption is allowable under Code §151(c) to a Participant or Participant's Spouse;

  - A Participant's Spouse;

  - A Participant's child, as defined in Code §152(f)(l), who is under 19 years of age at the end of the year in which the expenses were incurred; and

  - A Participant's Spouse's child, as defined in Code §152 (a)(i), who is under 19 years of age at the end of the year in which the expenses were incurred.

D.4 Maximum Benefit

- **Maximum Reimbursement Available and Statutory Limits.** The maximum dollar amount elected by the Participant for reimbursement of Dependent Care Expenses incurred during a Period of Coverage shall only be available during the Period of Coverage to the extent of the actual amounts credited to the Participant's **DCAP** less amounts debited to the Participant's **DCAP** pursuant to the Maximum Contribution paragraph below.

  Payment shall be made to the Participant as reimbursement for Dependent Care Expenses incurred during the Period of Coverage for which the Participant's election is effective, provided that the other requirements of this Section have been satisfied.

  No reimbursement otherwise due to a Participant hereunder shall be made to the extent that such reimbursement, when combined with the total amount of reimbursements made to date for the Plan Year, would exceed the year to date amount of Participant Contributions to the **DCAP** for the Period of Coverage or applicable statutory limit.

- **Maximum Dollar Limit.** The maximum dollar limit for a Participant is the smallest of the following amounts:

  - The Participant's Earned Income for the calendar year;
  - The Earned Income for the calendar year of the Participant's Spouse who:
    - Is not employed during a month in which the Participant incurs a Dependent Care Expense; and
    - Is either physically or mentally incapable of self-care or a full-time student shall be deemed to have Earned Income in the amount of $250 per month per Qualifying Individual for whom the Participant incurs Dependent Care Expenses, up to a maximum amount of $500 per month); or
  - $5,000 for the calendar year or the maximum allowed under federal regulations, if:
    - The Participant is married and files a joint federal income tax return; or
    - The Participant is married, files a separate federal income tax return, and meets the following conditions:
      - The Participant maintains as his or her home a household that constitutes, for more than half of the taxable year, the principal abode of a Qualifying Individual;
      - The Participant furnishes over half of the cost of maintaining such household during the taxable year; and
      - During the last six months of the taxable year, the Participant's Spouse is not a member of such household; or
    - The Participant is single or is the head of the household for federal income tax purposes.

- $2,500 for the calendar year, or the maximum allowed under federal regulation, if the Participant is married and resides with the Spouse, but files a separate federal income tax return.

- **Changes.** For subsequent Plan Years, the maximum and minimum dollar limit may be changed by the Plan Administrator and shall be communicated to Employees through the Salary Reduction Agreement or another document.

- **No Proration.** If a Participant enters the Plan mid-year or wishes to increase his or her election mid-year as permitted under this Plan, then the Participant may elect coverage or increase coverage respectively, up to the maximum annual benefit amount stated above. The maximum annual benefit amount will not be prorated.

- **Effect on Maximum Benefits If Election Change Permitted.** Any change in an election affecting annual Contributions to the **DCAP** component will also change the maximum reimbursement Benefits for the balance of the Period of Coverage commencing with the election change effective date. Such maximum reimbursement Benefits for the balance of the Period of Coverage shall be calculated by adding:

  - The aggregate Contribution for the period prior to such election change; to

  - The total Contribution for the remainder of such Period of Coverage to the **DCAP**; reduced by

  - All reimbursements made during the entire Period of Coverage.

D.5 Establishment of Account

The Plan Administrator will establish and maintain a **DCAP** with respect to each Participant who has elected to participate in the **DCAP**, but will not create a separate fund or otherwise segregate assets for this purpose. The account so established will merely be a record keeping account with the purpose of keeping track of Contributions and determining forfeitures.

- **Crediting of Accounts.** A Participant's **DCAP** will be credited following each Salary Reduction actually made during each Period of Coverage with an amount equal to the Salary Reduction actually made.

- **Debiting of Accounts.** A Participant's **DCAP** will be debited during each Period of Coverage for any reimbursement of Dependent Care Expenses incurred during the Period of Coverage.

- **Available Amount is Based on Credited Amount.** The amount available for reimbursement of Dependent Care Expenses may not exceed the year-to-date amount credited to the Participant's **DCAP**, less any prior reimbursements. A Participant's **DCAP** may not have a negative balance during a Period of Coverage.

D.6 Grace Period and Unused Year End Balance

- **Grace Period**. The Employer has the discretion to establish a grace period following the end of the Plan Year as follows. If a Participant has unused funds in his or her **DCAP** at the end of the

Plan Year and the Participant is still an active Participant on the last day of the Plan year, such Participant is allowed to carry over the unused balance for reimbursement of Dependent Care Expenses incurred during the Grace Period. Unused funds in a Participant's **DCAP** may not be used to reimburse another Benefit Option the Participant may have elected. The Grace Period shall begin immediately following the end of the Plan Year and terminate on the 15th day of the third calendar month after the end of the Plan Year.

- **Use It or Lose It Rule**. Except for expenses incurred in an applicable Grace Period, if any balance remains in the Participant's **DCAP** after all reimbursements have been made for the Period of Coverage, it shall not be carried over to reimburse the Participant for Dependent Care Expenses incurred during the subsequent Plan Year. The Participant shall forfeit all rights with respect to such balance. Claims must be submitted on or before April 15th of the year immediately following the close of the plan year in which the expenses were incurred.

- **Use of Forfeiture**. All forfeitures shall be used by the Plan in the following ways:

  - To offset any losses experienced by the Employer during the Plan Year as a result of making reimbursements with respect to all Participants in excess of the Contributions paid by such Participant through Salary Reduction;

  - To reduce the cost of administering the **DCAP** during the Plan Year or the subsequent Plan Year (all such administrative costs shall be documented by the Plan Administrator); and

  - To provide increased Benefits or Compensation to Participants in subsequent years in any weighted or uniform fashion the Plan Administrator deems appropriate, and consistent with applicable regulations.

- **Unclaimed Benefits.** Any **DCAP** Benefit payments that are unclaimed by the close of the Plan Year following the Period of Coverage or Grace Period in which the Dependent Care Expense was incurred shall be applied as described above.

D.7 Reimbursement Procedure

- **Timing.** Within 30 days after receipt by the Plan Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Dependent Care Expenses or the Plan Administrator will notify the Participant that a claim has been denied. This time period may be extended an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension, and will allow the Participant 45 days from receipt of the written notice in which to complete an incomplete reimbursement claim.

- **Claims Substantiation.** A Participant who has elected to receive **DCAP** Benefits for a Period of Coverage may apply for reimbursement by completing, signing, and returning an application to the Plan Administrator by no later than the date set by the Plan Administrator each year, setting forth:

  - The person or persons on whose behalf Dependent Care Expenses have been incurred;

- The nature and date of the expenses incurred;
- The amount of the requested reimbursement;
- The name of the person, organization or entity to whom the expense was or is to be paid;
- A statement that such expenses have not otherwise been reimbursed and the Participant will not seek reimbursement through any other source;
- The Participant's certification that he or she has no reason to believe that the reimbursement refunded, added to other reimbursements to date will exceed the limit herein; and
- Other such details about the expenses that may be requested by the Plan Administrator.

The Participant shall include bills, invoices, or other statements from an independent third party showing that the Dependent Care Expenses have been incurred and the amounts of such expenses, together with any additional documentation that the Plan Administrator may request.

- **Claims Denied.** For appeals of claims that are denied, see the Appeals Procedure in the Plan Document.

D.8 Reimbursements After Termination

If a Participant's employment terminates, the Participant may submit for reimbursement Dependent Care Expenses incurred before the last day of the Plan year (even if after the date of termination) up to the amount of the Participant's remaining **DCAP** Benefits. As a clarification: A participant who terminates coverage before the last day of the Plan Year will not be reimbursed for expenses incurred during the Grace Period associated with that Plan Year. A terminated participant may only be reimbursed for expenses incurred during the participant's period of coverage (DCAP participants' coverage ceases on the last day of the Plan year).

D.9 DCAP Participant vs. Claiming the Dependent Care Tax Credit

Employees often have the choice between participating in their employer's **DCAP** on a Salary Reduction basis or taking a Dependent Care Tax Credit under Code §21. Employees cannot take advantage of both tax benefit options for the same expenses. Employees with questions regarding which option is best should consult with an accountant.

Schedule E
Limited Scope Health Flexible Spending Account

Unless otherwise specified, terms capitalized in this Schedule E shall have the same meaning as the defined terms in the Plan Document to which this Schedule is attached.

E.1 Benefits

ABenefit Eligible Employee not enrolled in the **Health FSA** can elect to participate in the **Limited Scope Health FSA** by electing to receive Benefits in the form of reimbursements for dental and vision expenses. If elected, the Benefit Option will be funded by Participant Contributions on a pre-tax Salary Reduction basis as provided in the Employer and Participant Contributions section in the Plan Document.

Unless an exception applies as described in the Irrevocability of Elections and Exceptions section, such election is irrevocable for the duration of the Period of Coverage to which it relates.

The **HSA Contribution Benefit** may be elected with the **Limited Scope Health FSA**.

E.2 Benefit Contributions

The annual Contribution for a Participant's **Limited Scope Health FSA** is equal to the annual Benefit amount elected by the Participant.

E.3 Eligible Dental and Vision Expenses

Under the **Limited Scope Health FSA**, a Participant may receive reimbursement for dental and vision expenses incurred during the Period of Coverage for which an election is in force.

- **Incurred**. A dental or vision expense is incurred at the time the dental or vision care or service giving rise to the expense is provided, and not when the Participant is formally billed for, is charged for, or pays for the care.

- **Dental and Vision Expenses**. Dental and Vision Expenses means expenses incurred by a Participant, the Participant's Spouse or Dependent(s) covered under the **Limited Scope Health FSA** within the meaning of "health care" as defined in Code §§213(d) and 106(f), provided, however, that such expense is for vision or dental care only. This term does not include expenses that are excluded under Appendix A to this Plan, nor any expenses for which the Participant or other person incurring the expense is reimbursed for the expense through the Health Plan, other insurance, or any other accident or health plan. If only a portion of a Health Care Expense has been reimbursed elsewhere, then the **Limited Scope Health FSA** can reimburse the remaining portion of such Expense if it otherwise meets the requirements of this Section.

- **Expenses That Are Not Reimbursable.** Insurance premiums are not reimbursable from the **Limited Scope Health FSA**. Other expenses that are not reimbursable are listed in Appendix A to the Plan Document.

E.4 Maximum and Minimum Benefits

- **Maximum Reimbursement Available; Uniform Coverage Rule.** The maximum dollar amount elected by the Participant for reimbursement of Dental and Vision Expenses incurred during a Period of Coverage, reduced by prior reimbursements during the Period of Coverage, shall be available at all times during the Period of Coverage, regardless of the actual amounts credited to the Participant's **Limited Scope Health FSA**. Notwithstanding the foregoing, no reimbursements will be available for Dental and Vision Expenses incurred after coverage under this Plan has terminated, unless the Participant has elected COBRA as provided below, or is entitled to submit expenses incurred during a Grace Period as provided below.

- **Payment** shall be made to the Participant in cash as reimbursement for Dental and Vision Expenses incurred during the Period of Coverage for which the Participant's election is effective, or during a Grace Period as provided below, provided that the other requirements of this Section have been satisfied.

- **Maximum Dollar Limit.** The maximum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Dental and Vision Expenses incurred in any Period of Coverage shall be no greater thanthe maximum allowed under federal regulations and as set forth in the annual open enrollment materials for the Plan Year. Reimbursements due for Dental and Vision Expenses incurred by the Participant's Spouse or Dependent(s) shall be charged against the Participant's **Limited Scope Health FSA**.

- **Changes**. For subsequent Plan Years, the maximum dollar limit may be changed by the Plan Administrator and shall be communicated to Employees through the Salary Reduction Agreement or another document.

- **No Proration**. If a Participant enters the Plan mid-year or wishes to increase his or her election mid-year as permitted under this Plan, then the Participant may elect coverage or increase coverage respectively, up to the maximum annual benefit amount stated above. The maximum annual benefit amount will not be prorated.

- **Effect on Maximum Benefits If Election Change Permitted**. Any change in an election affecting annual Contributions to the **Limited Scope Health FSA** will also change the maximum reimbursement benefits for the balance of the Period of Coverage commencing on the election change effective date. Such maximum reimbursement benefits for the balance of the Period of Coverage shall be calculated by adding:

  - The aggregate Contribution for the period prior to such election change; to

  - The total Contribution for the remainder of such Period of Coverage to the **Limited Scope Health FSA**; reduced by

  - All reimbursements made during the entire Period of Coverage.

- **FMLA Leave.** Any change in an election for FMLA leave will change the maximum reimbursement benefits in accordance with FMLA or the regulations governing cafeteria plans.

- **Monthly Limits on Reimbursing OTC Drugs.** Only reasonable quantities of over-the-counter (OTC) drugs or medicines of the same kind may be reimbursed from a Participant's **Limited Scope Health FSA** in a single calendar month, even assuming that the drug otherwise meets the requirements of this Section, including that it is for dental or vision care under Code §§213(d) and 106(f). Stockpiling is not permitted.

E.5 Establishment of Account

The Plan Administrator will establish and maintain a **Limited Scope Health FSA** with respect to each Participant who has elected to participate in the **Limited Scope Health FSA**, but will not create a separate fund or otherwise segregate assets for this purpose. The account established hereto will merely be a record keeping account with the purpose of keeping track of Contributions and determining forfeitures.

- **Crediting of Accounts.** A Participant's **Limited Scope Health FSA** will be credited following each Salary Reduction actually made during each Period of Coverage with an amount equal to the Salary Reduction actually made.

- **Debiting of Accounts.** A Participant's **Limited Scope Health FSA** will be debited during each Period of Coverage for any reimbursement of Dental and Vision Expenses incurred during the Period of Coverage or during a Grace Period as provided below.

- **Available Amount Not Based on Credited Amount.** The amount available for reimbursement of Dental and Vision Expenses is the amount as calculated according to the "Maximum Reimbursement Available" paragraph of this Section above. It is not based on the amount credited to the **Limited Scope Health FSA** at a particular point in time.

E.6 Use It or Lose It Rule; Forfeiture Of Account Balance

- **Use It or Lose It Rule.** Except for expenses incurred during an applicable Grace Period, if any balance remains in the Participant's **Limited Scope Health FSA** for a Period of Coverage after all reimbursements have been made for the Period of Coverage, then such balance shall not be carried over to reimburse the Participant for Dental and Vision Expenses incurred during a subsequent Plan Year. The Participant shall forfeit all rights with respect to such balance. The Grace Period shall begin immediately following the end of the Plan Year and terminate on the 15th day of the third calendar month after the end of the Plan Year. Claims must be submitted on or before April 15th of the year immediately following the close of the plan year in which the expenses were incurred.

- **Use of Forfeitures.** All forfeitures under this Plan shall be used as follows:

  - First, to offset any losses experienced by Employer during the Plan Year as a result of making reimbursements with respect to any Participant in excess of the Contributions paid by such Participant through Salary Reductions;

  - Second, to reduce the cost of administering the **Limited Scope Health FSA** during the Plan Year or the subsequent Plan Year (all such administrative costs shall be documented by the Plan Administrator); and

- To provide increased Benefits or compensation to all Participants in subsequent years in any weighted or uniform fashion that the Plan Administrator deems appropriate, consistent with applicable regulations.

- **Unclaimed Benefits.** Benefit payments that remain unclaimed by the close of the Plan Year following the Period of Coverage in which the Dental and Vision Expense was incurred shall be forfeited and applied as described above.

E.7 Grace Period

- **Special Rules for Claims Incurred During a Grace Period.** The Employer has the discretion to establish a grace period following the end of the Plan Year, as follows:

  - An individual may be reimbursed for Dental and Vision Expenses incurred during a Grace Period from amounts remaining in his or her **Limited Scope Health FSA** Account at the end of the Plan Year to which that Grace Period relates ("Prior Plan Year **Limited Scope Health FSA** Amounts") if the individual is either:

    - A qualified beneficiary as defined under COBRA who has COBRA coverage under the **Limited Scope Health FSA** Benefit Option on the last day of that Plan Year; or

    - A Participant with **Limited Scope Health FSA** coverage that is in effect on the last day of that Plan Year. As a clarification: A participant who terminates coverage before the last day of the Plan Year will not be reimbursed for expenses incurred during the Grace Period associated with that Plan Year. A terminated participant may only be reimbursed for expenses incurred during the participant's period of coverage (Limited Scope Health FSA participants' coverage ceases at the end of the month following the last contribution).

  - Prior Plan Year **Limited Scope Health FSA** Amounts may not be cashed out or converted to any other taxable or non-taxable Benefit Option. For example, Prior Plan Year **Limited Scope Health FSA** Amounts may not be used to reimburse Dependent Care Expenses.

  - Dental and Vision Expenses incurred during a Grace Period and approved for reimbursement will be reimbursed first from any available Prior Plan Year **Limited Scope Health FSA** Amounts and then from any amounts that are available to reimburse expenses that are incurred during the current Plan Year. An individual's Prior Plan Year **Limited Scope Health FSA** Amounts will be debited for any reimbursement of Dental and Vision Expenses incurred during the Grace Period that is made from such Prior Plan Year **Limited Scope Health FSA** Amounts.

  - Claims for reimbursement of Dental and Vision Expenses incurred during a Grace Period must be submitted no later than April 15th following the close of the Plan Year to which the Grace Period relates in order to be reimbursed from Prior Plan Year **Limited Scope Health FSA** Amounts. Any Prior Plan Year **Limited Scope Health FSA** Amounts that remain after all reimbursements have been made for the Plan Year and its related Grace Period shall not be carried over to reimburse the Participant for expenses incurred in any subsequent period. The Participant will forfeit all rights with respect to these amounts, which will be subject to the Plan's provisions regarding forfeitures.

E.8 Reimbursement Procedure

- **Timing.** Within 30 days after receipt by the Plan Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Dental and Vision Expenses, or the Plan Administrator will notify the Participant that a claim has been denied. This time period may be extended for an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension, and will allow the Participant 45 days from receipt of the written notice in which to complete an incomplete reimbursement claim.

- **Claims Substantiation**. A Participant who has elected to receive Limited Scope Dental and Vision Reimbursement Benefits for a Period of Coverage may apply for reimbursement by submitting an application to the Plan Administrator by no later than the date set by the Plan Administrator each year, setting forth:

  - The person or persons on whose behalf Dental and Vision Expenses have been incurred;
  - The nature and date of the expenses incurred;
  - The amount of the requested reimbursement;
  - A statement that such expenses have not otherwise been reimbursed and the Participant will not seek reimbursement through any other source; and
  - Other such details about the expenses that may be requested by the Plan Administrator in the reimbursement request form or otherwise.

  The application shall be accompanied by bills, invoices, or other statements from an independent third party showing that the Dental and Vision Expenses have been incurred and the amounts of such expenses, together with any additional documentation that the Plan Administrator may request.

- **Claims Denied**. For appeal of claims that are denied, see the Appeals Procedure in the Plan Document.

- **Claims Ordering; No Reprocessing.** All claims for reimbursement will be paid in the order in which they are approved. Once paid, a claim will not be reprocessed or otherwise recharacterized solely for the purpose of paying it from amounts attributable to a different Plan Year or Period of Coverage.

E.9 Reimbursements After Termination; Limited COBRA Continuation

The Participant will not be able to receive reimbursements for Dental and Vision Expenses incurred after participation terminates. However, except for expenses incurred during an appropriate Grace Period, such Participant, or the Participant's estate, may claim reimbursement for any Dental and Vision Expenses incurred during the Period of Coverage prior to termination, provided that the Participant, or the Participant's estate, files a claim by the date established in the Reimbursement Procedure

paragraphs above following the close of the Plan Year in which the Dental or Vision Expense was incurred.

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and such Participant's Spouse and Dependent(s), whose coverage terminates under the **Limited Scope Health FSA** because of a COBRA qualifying event, shall be given the opportunity to continue the same coverage that the Participant had under the **Limited Scope Health FSA** the day before the qualifying event, subject to all conditions and limitations under COBRA. The Contributions for such continuation coverage will be equal to the cost of providing the same coverage to an active employee taking into account all costs incurred by the Employee and the Employer plus a 2% administration fee. Specifically, an individual will be eligible for COBRA continuation coverage only if the Participant's remaining available amount is greater than the Participant's remaining Contribution payments at the time of the qualifying event, taking into account all claims submitted before the date of the qualifying event. Such individual will be notified if the individual is eligible for COBRA continuation coverage.

If COBRA is elected, COBRA coverage will be subject to the most current COBRA rules. COBRA will be available only for the remainder of the Plan Year in which the qualifying event occurs. Such COBRA coverage for the **Limited Scope Health FSA** will cease at the end of the Plan Year, except for expenses incurred during an appropriate Grace Period, and cannot be continued for the next Plan Year. Coverage may terminate sooner if the Contributions for a Period of Coverage are not received by the due date established by the Plan Administrator for that Period of Coverage. Continuation coverage is only granted after the Plan Administrator has received the Contributions for that period of coverage.

Contributions for coverage for **Limited Scope Health FSA** Benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation, as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year, where COBRA coverage arises either:

- Because the Employee ceases to be eligible because of a reduction of hours; or
- Because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage.

For all other individuals (for example, Employees who cease to be eligible because of retirement, termination of employment, or layoff), Contributions for COBRA coverage for **Limited Scope Health FSA** Benefits shall be paid on an after-tax basis, unless permitted otherwise by the Plan Administrator, in its discretion and on a uniform and consistent basis, but may not be prepaid from Contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year.

E.10 Qualified Reservist Distribution

If a Participant meets all of the following conditions, the Participant may elect to receive a qualified reservist distribution from the **Limited Scope Health FSA**:

- The Participant's Contributions to the **Limited Scope Health FSA** for the Plan Year as of the date the qualified reservist distribution is requested exceeds the reimbursements the Participant has received from the **Limited Scope Health FSA** for the Plan Year as of that date.

- The Participant is ordered or called to active military duty for a period of at least 180 days or for an indefinite period by reason of being a member of the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, the Coast Guard Reserve, or the Reserve Corps of the Public Health Service.

- The Participant has provided the Plan Administrator with a copy of the order or call to active duty. An order or call to active duty of less than 180 days' duration must be supplemented by subsequent calls or orders to reach a total of 180 or more days.

- The Participant is ordered or called to active military duty on or after April 1, 2009, or the Participant's period of active duty begins before April 1, 2009 and continues on or after the date.

- During the period beginning on the date of the Participant's order or call to active duty and ending on the last day of the Plan Year during which the order or call occurred, the Participant submits a qualified reservist distribution election form to the Plan Administrator.

Amount of Qualified Reservist Distribution. If the above conditions are met, the Participant will receive a distribution from the **Limited Scope Health FSA** equal to his or her Contributions to the **Limited Scope Health FSA** for the Plan Year as of the date of the distribution request, minus any reimbursements received for the Plan Year as of that date.

No Reimbursement for Expenses Incurred After Distribution Request. Once a Participant requests a qualified reservist distribution, the Participant forfeits the right to receive reimbursements for Dental and Vision Expenses incurred during the period that begins on the date of the distribution request and ends on the last day of the Plan Year. The Participant may, however, continue to submit claims for Dental and Vision Expenses that were incurred before the date of the distribution request (even if the claims are submitted after the date of the qualified reservist distribution), so long as the total dollar amount of the claims does not exceed the amount of the **Limited Scope Health FSA** election for the Plan Year, minus the sum of the qualified reservist distribution and the prior **Limited Scope Health FSA** reimbursements for the Plan Year.

Tax Treatment of a Qualified Reservist Distribution. If the Participant receives a qualified reservist distribution, it will be included in his or her gross income and will be reported as wages on the Participant's Form W-2 for the year in which it is paid.

E.11 Named Fiduciary

The Plan Administrator is the Named Fiduciary for the **Limited Scope Health FSA**.

E.12 Coordination of Benefits

Limited Scope Health FSAs are intended to pay Benefits solely for Dental and Vision Expenses not previously reimbursed or reimbursable elsewhere. Accordingly, the **Limited Scope Health FSA** shall not be considered a group health plan for coordination of benefits purposes, and the **Limited Scope Health FSA** shall not be taken into account when determining benefits payable under any other plan.

*AUTHORITY: section 33.103, RSMo Supp. [2014] **2013**. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Sept. 15, 2015, effective Jan. 1, 2016, expires June 28, 2016. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment may cost the state up to an average of four thousand six hundred seventy dollars ($4,670) per year in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Commissioner of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: 1—Office of Administration
Division Title: 10—Commissioner's Office
Chapter Title: 15—Cafeteria Plan

Rule Number and Name:	1 CSR 10-15.010 Cafeteria Plan
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
All agencies	Approximately $4,670 cost per year offset by savings of $5,925 per year for a net savings of $1,254 per year.

III. WORKSHEET

Source of Impact to All Agencies of State Government	Total Dollars Subject to Withholding	Withholding Percentage	Impact in Dollars
Social Security Employer Contribution	$77,450	6.20%	$ 4,801
Medicare Employer Contribution	$77,450	1.45%	$ 1,123
Reduction in State Income Tax Collected	$77,450	6.00%	$ (4,670)
Net Impact			**$ 1,254**

***All numbers are approximate, based on past usage of the cafeteria plan**

IV. ASSUMPTIONS

The cafeteria plan allows employees of the state and other participating state entities to set aside a portion of their salary to be used to pay for certain qualifying medical and dependent care expenses utilizing flexible spending accounts. The IRS sets the limits on the amount that can be contributed into the accounts, which is updated regularly. Under the current plan regulation, the specific dollar amount of the maximum contribution is identified. In order to keep up with the changes in the maximum allowable contribution, this amendment is being made to change the plan regulation to set the maximum contribution to the same amount that is advertised in the annual open enrollment materials that is supplied to all employees of the state

It is estimated that the potential decrease in costs to the State of Missouri, as the employer, would result from employees having larger deductions taken out of their pay checks pre-tax, and would result in the employer paying less FICA taxes of 7.65% on those dollars. The annual estimate for the reduction in taxes is approximately $5,925.

This amount would, however, be offset in part by the amount of reduced state taxes collected from affected employees of approximately $4,670.

There would be fiscal impacts in future years as well. The IRS typically makes cost of living increases on an annual basis that may increase the allowable maximum contribution. The amounts of the impacts are dependent on the rate of change in the maximum contribution amount limits set by the IRS.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 1—Organization, Purpose, and Definitions

PROPOSED AMENDMENT

10 CSR 50-1.010 Organization. The council is amending sections (1)–(3).

PURPOSE: This amendment updates the names of council member entities to reflect the current entity names and adds a representative from the Missouri Independent Oil and Gas Association as a member, consistent with the authorizing statute.

(1) **Chapter 259, RSMo, establishes** *[T]*the State Oil and Gas Council *[is composed of the following state agencies: Division of Geology and Land Survey, Division of Commerce and Industrial Development,]*. **The council consists of eight (8) members: the state geologist; members representing Department of Economic Development,** Missouri Public Service Commission, Clean Water Commission**,** *[and]* **Missouri** University of *[Missouri.]* **Science and Technology Petroleum Engineering Program, and Missouri Independent Oil and Gas Association; and** *[T]*two (2) other persons knowledgeable of the oil and gas industry are appointed to the council by the governor with the advice and consent of the senate.

(2) Member agencies are represented on the council by the executive head of the agency**,** except that the **Missouri** University of *[Missouri]* **Science and Technology** shall be represented by a professor of petroleum engineering **and the Missouri Independent Oil and Gas Association shall be represented by a designated member of the association**.

(3) The state geologist shall act as a supervisor charged with the duty of enforcing the rules and orders of the council applicable to the crude *[petroleum]* **oil** and natural gas resources of the state. The authority to engage in oil and gas drilling or producing operations will be granted by the state geologist when the requirements of 10 CSR 50*[-2.010–10 CSR 50-2.110]* and Chapter 259, RSMo have been complied with. *[The state geologist also serves as director of the Division of Geology and Land Survey (DNR) with offices at Rolla, Missouri. Address P.O. Box 250, Rolla, MO 65401, (314) 364-1752.]*

*AUTHORITY: sections 259.010, 259.020, 259.030, and 259.040, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 22, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed June 14, 1976, effective Nov. 12, 1976. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 1—Organization, Purpose, and Definitions

PROPOSED AMENDMENT

10 CSR 50-1.020 General Procedures *[and Purpose]*. The council is amending the title of the rule, the purpose, sections (3), (4), and (7), deleting sections (2), (5), and (6), adding new sections (5), (6), and (7), and renumbering as needed.

PURPOSE: This amendment provides additional detail on notice requirements for hearings, specifies that Missouri nomenclature shall be used, and provides the process and requirements for records to be held confidential.

*PURPOSE: This rule provides for the general practice and procedure of the council[,] **and** the application of rules promulgated by the council [and declares the purpose of these rules].*

[(2) Special rules will be promulgated when required and shall take precedence over general rules if in conflict therewith.]

*[(3)]***(2)** No order or amendment, except in an emergency, shall be made by the council without a public hearing upon at least ten (10) days' notice. The public hearing shall be held at a time and place as may be prescribed by the council and any interested person shall be entitled to be heard. **The notice requirements in this regulation apply to each hearing arising under Chapter 259, RSMo, and implementing regulations heard by the council or any agent appointed by the council.**

(A) Notice of the hearing shall be published by the council in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. If the notice is applicable throughout the state, then it shall be published in a newspaper of general circulation which is published in Jefferson City.

(B) A copy of the notice of the hearing shall be mailed by the council to each person who has filed for the purpose of receiving notice. The notice shall be mailed not less than ten (10) business days prior to the hearing date.

(C) In addition to notice required in subsection (2)(A), the council also shall provide notice to any person whose property interests may be affected by the outcome of the hearing.

*[(4)]***(3)** When **the council determines** an emergency requiring immediate action *[is found to]* exists, the council is authorized to issue an emergency order without notice of hearing, which shall be effective *[upon promulgation]* **when issued**. No emergency order shall remain effective for more than fifteen (15) **calendar** days.

[(5) It is hereby declared to be in the public interest—

(A) To foster, to encourage and to promote the orderly and economic development, production and utilization of natural resources of oil and gas;

(B) To authorize and to provide for the operation and development of oil and gas properties in a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected;

(C) To encourage and to authorize the development and use of physical processes to obtain the greatest possible economic recovery of oil and gas in so-called primary, secondary and tertiary operations;

(D) To provide for complete protection of strata containing fresh water or water of present value or probable future value in all wells; and

(E) To provide for the elimination of surface or subsurface pollution or waste during and after drilling, producing and

abandonment procedures in all wells.

(6) In the interest of conservation of natural resources, waste of oil and gas is prohibited.]

*[(7)]***(4)** The *[state geologist, member of the council]* **department** or **its** authorized representatives shall have the authority to enter property, with the consent of the owner or *[person in possession]* **operator**, to conduct investigations or inspections as are consistent with the intent of Chapter 259, RSMo.

(5) The council, after a hearing as provided by law, may order an operation to cease or wells to be plugged upon a finding that any provisions of the laws, rules, or conditions of the council have been violated or that any fraud, deceit, or misrepresentation was made to obtain the approval of a permit. Appeals of any decision of the council may be made as provided by law.

(6) Information submitted pursuant to Chapter 259, RSMo, and implementing regulations shall use Missouri nomenclature.

(7) Confidentiality. Information gathered pursuant to Chapter 259, RSMo, and implementing regulations is public record pursuant to the Missouri Sunshine law, Chapter 610, RSMo. Confidentiality may be granted upon request, in accordance with section 640.155.1, RSMo. Cancelled permits are not considered confidential.

(A) If a written request for confidentiality is made to the state geologist within one hundred twenty (120) days of the spud date or the date of commencement of recompletion of the well, all information, samples, or cores filed as required in 10 CSR 50-2.050 shall be held in confidential custody for an initial period of one (1) year from the written request.

(B) All rights to confidentiality shall be lost if the filings are not timely, as provided in 10 CSR 50-2.050, or if the request for confidentiality is not timely, as provided in subsection (9)(A).

(C) Samples, cores, or information may be released before the expiration of the one- (1-) year period only upon written approval of the operator.

(D) If a request for an extension is made at least thirty (30) days before the expiration of the initial one- (1-) year period, the period of confidentiality may be extended for one (1) additional year.

*AUTHORITY: sections 259.070 and 259.140, RSMo [1986] **Supp. 2013, and sections 259.190 and 259.200, RSMo 2000**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 13, 1983, effective Dec. 11, 1983. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 1—Organization, Purpose, and Definitions

PROPOSED AMENDMENT

10 CSR 50-1.030 Definitions. The council is amending the purpose and sections (1) and (2).

PURPOSE: This amendment adds definitions for additional terms used throughout the rules, deletes terms that are not used in the rules, and updates existing terms to be consistent with their statutory definitions.

*PURPOSE: [Since many of the terms used in the oil and gas industry are unique to that industry, t]**T**his rule provides the definitions [found in section 259.050, RSMo for the convenience of those using these rules.] **for terms used in 10 CSR 50.***

(1) *[See Chapter 259, RSMo,]* **The terms used in 10 CSR 50 shall have the meanings set forth in** section 259.050 *[for those words specifically defined by statute—]***, RSMo, or this rule, unless the context of the term clearly indicates otherwise.**

[(A) Applicant well, the well or group of wells from which an area of review is calculated;]

(A) Terms beginning with the letter A.

1. Abandoned site, any property or lease that is no longer operated as an active site for oil and gas production and injection projects.

2. Abandoned well, a well that is no longer operated for its intended use and has not been shut in, converted to another type of well, or plugged.

*[(B)]***3.** Area of review, an area surrounding a**n** *[single applicant]* **injection** well**(s)** *[or extending from the outer perimeter of a group of applicant wells to]* **that extends** a minimum of one-half (1/2) mile from the well(s) *[and including the project area of the well(s);]* **or from the unit boundary of an enhanced recovery project.**

*[(C)]***4.** Area of review well, any well including, **but not limited to,** water wells**,** *[and]* abandoned wells**, plugged wells and dry holes,** located within the area of review, which penetrates the injection interval*[;]***.**

(B) Terms beginning with the letter B.

1. (Reserved)

(C) Terms beginning with the letter C.

1. Casing, the impervious, durable, tubular materials used to line a wellbore.

2. Casinghead gas, gas produced that was in solution with oil in its original state in the reservoir.

3. Cement, portland cement or a blend of portland cement.

[(D) Certificate of clearance means a permit prescribed by the council for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring the permit;]

4. Coalbed natural gas, natural gas produced from either coal seams or associated shale.

5. Commercial well, a well from which oil or gas is recovered and sold, traded or otherwise used for profit.

6. Common source of supply, synonymous with "pool" as defined in this rule.

7. Confining strata, geologic stratum or strata that serve as a barrier between water-, oil-, or gas-bearing strata.

8. Core, a continuous section of geologic materials recovered during drilling.

*[(E)]***9.** Corrective action, remedial action on any *[area of review]* well to prevent the migration of fluids from **the surface or from** one (1) stratum to another*[;]***.**

10. Correlative rights, the right of each owner or operator in a pool to obtain that owner's or operator's just and equitable share of the oil or gas resource, or an economic equivalent of that share of the resource, produced in a manner or amount that will not have any of the following effects:

A. Damage the reservoir;

B. Take an undue proportion of the obtainable oil or gas; or

C. Cause undue drainage between developed leases.

*[(F)]***11.** Council, the State Oil and Gas Council established by section 259.010*[;]*, **RSMo.**

(D) Terms beginning with the letter D.

1. Department, the Department of Natural Resources.

2. Disposal well, an injection well used to place produced water, non-usable gas or other liquid or gaseous waste associated with the production of oil or gas or both into an injection zone and is not used for enhanced recovery.

(E) Terms beginning with the letter E.

1. Enhanced recovery, any process used to increase the recovery of oil or gas from a pool through secondary or tertiary recovery. Enhanced recovery includes, but is not limited to, water floods, pressure maintenance projects, cycling or recycling projects, steam floods, fire floods, carbon dioxide injection projects, high-density well drilling projects, and approved technologies that are either unconventional or in any way redirect the natural movement of oil or gas or formation water in the pool. Enhanced recovery typically involves the use of injection wells of some kind as part of a production unit.

2. Enhanced recovery injection well, an injection well used to move underground fluids to production wells through the use of water, steam, gas, or any other substance in order to redirect or facilitate the natural movement of oil, gas, or water in a pool.

*[(G)]***3.** Exempted aquifer, an aquifer or its portion that meets the criteria in the definition of Underground Source of Drinking Water set forth in *[subsection]* **paragraph** (1)(*[X]***U**)**1.** of this rule but which has been exempted *[by the director of the Department of Natural Resources because the aquifer or its portion is oil- or gas-producing;]* **for operation of an injection well.**

(F) Terms beginning with the letter F.

*[(H)]***1.** Field, the general area underlain by one (1) or more pools*[;]***.**

*[(I)]***2.** Fluid, any material or substance which flows or moves whether in a semi-solid, liquid, sludge**,** or gaseous state*[;]***.**

3. Formation water, water that occurs naturally within the pores of a geologic formation or stratum.

(G) Terms beginning with the letter G.

*[(J)]***1.** Gas, all natural gas and all other fluid hydrocarbons which are produced at the wellhead and not **herein below** defined *[in this rule]* as oil*[;]***.**

(H) Terms beginning with the letter H.

1. Horizontal well, a well drilled at an angle to the vertical, typically parallel to the geologic strata containing oil or gas.

(I) Terms beginning with the letter I.

[(K) Illegal gas means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the council;

(L) Illegal oil means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the council;

(M) Illegal product means any product derived in whole or in part from illegal oil or illegal gas;]

1. Increased well density, the drilling of an additional primary production well in a spacing unit.

2. Injection, emplacement of fluids into the subsurface through a well.

*[(N)]***3.** Injection well, a well into which fluids are injected during all or part of the life of the well **for disposal or enhanced recovery projects or for underground storage of gas that is liquid at standard temperature and pressure**, but not including oil- or gas-producing wells *[into which cumulative fluid injection is less than three thousand (3000) reservoir barrels;]* **undergoing approved well stimulation treatment.**

4. Injection zone, a geological stratum, group of strata, or part of a stratum that receives fluids through a well.

(J) Terms beginning with the letter J.

1. (Reserved)

(K) Terms beginning with the letter K.

1. (Reserved)

(L) Terms beginning with the letter L.

1. Location exception, authorization given by the state geologist to drill a well at a location other than that which is prescribed by these regulations.

(M) Terms beginning with the letter M.

*[(O)]***1.** Mechanical integrity**,** *[exists if]* **a well shall be considered to have mechanical integrity if** there is no significant leakage in the casing, tubing**,** or packer; and there is no significant fluid movement into an*[d]* underground source of drinking water through vertical channels adjacent to the wellbore*[;]***.**

2. Missouri nomenclature, Missouri-specific geologic terminology as provided by the state geologist including, but not limited to, names of geologic strata, pools, and geologic features.

3. Multiple completion, the completion of any well that permits production from two (2) or more pools that are completely segregated by confining strata.

(N) Terms beginning with the letter N.

*[(P)]***1.** Non-commercial gas well, a **gas** well drilled for the sole purpose of *[furnish]* **provid**ing gas for private domestic consumption by the owner and not for resale or trade*[;]***.**

(O) Terms beginning with the letter O.

*[(Q)]***1.** Oil, crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas*[;]***. The term shall also include hydrocarbons that do not flow to a wellhead but are produced by other means, including those contained in oil-shale and oil-sand.**

*[(R)]***2.** Oil and Gas Remedial Fund, **the** fund established by section 259.190.5**, RSMo** into which forfeited bond monies*[, penalty monies]* and proceeds from the sale of illegal oil, illegal gas**,** *[or]* **and** illegal product are deposited, *[the monies in]* which *[are]* **is** to be used for plugging abandoned wells as provided for in 10 CSR 50-2.060*[(10);]***(3)(E).**

3. Oil and Gas Resources Fund, the fund established by section 259.052, RSMo, into which all gifts, donations, transfers, moneys appropriated by the General Assembly, permit application fees, operating fees, closure fees, late fees, severance fees, and bequests are deposited, which is to be used to administer the provisions of Chapter 259, RSMo, and implementing regulations, and to collect, process, manage, interpret, and distribute geologic and hydrologic resource information pertaining to oil and gas potential.

4. Open well, a well that has not been plugged including, but not limited to, abandoned, operating, or shut-in wells.

5. Operator, a person who drills, maintains, operates, or controls wells associated with oil or gas production, storage, or injection projects.

*[(S)]***6.** Owner, the person who has the right to drill into and produce from a pool and to appropriate the oil or gas *[s/]*he produce*[s]***d** therefrom either for him*[/her]*self or others or for him*[/her]*self and others*[;]***.**

(P) Terms beginning with the letter P.

1. Person, any individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, governmental or political subdivision, or any other legal entity.

2. Plugged well, a well that has been filled or partially filled with cement or other materials to prevent the migration of fluids within the well.

*[(T)]***3.** Pool, an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a **"**pool,**"** as that term is used in *[this c]***C**hapter*[;]* **259, RSMo, and in these regulations.**

4. Pooling, the contractual agreement of those holding the rights to mineral interests within a single spacing unit for primary production, whether that agreement is voluntary or by order of the council, to produce oil or gas or both from that unit.

5. Primary production, the process of recovery of oil or gas from a pool in which one (1) well is capable of efficiently draining the pool or portion thereof that resides within the confines of the spacing unit and the drainage of oil, gas, or formation water into the well occurs naturally.

6. Produced water, formation water that is associated with the production of oil or gas and either requires disposal or is used as part of an enhanced recovery project.

[(U) Producer, the owner of a well(s) capable of producing oil or gas or both;]

*[(V)]***7.** Product, any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, kerosene, *[benzine]* **benzene**, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one (1) or more liquid products or by-products derived from oil or gas, and blends or mixtures o*[r]***f** two (2) or more liquid products or by-products, derived from oil or gas whether **herein** enumerated *[in this rule]* or not*[;]***.**

8. Production unit, an uninterrupted block of acreage of any size and any shape that has a definite outer boundary and in which wells may be drilled for enhanced recovery. The acreage that composes a production unit may include default spacing units, acreage for which spacing units have or have not been explicity ordered by the state geologist or council, pooled or non-pooled mineral acreage, and all or parts of past and present production units.

9. Production well, any well used for recovery of oil or gas or both.

(Q) Terms beginning with the letter Q.

1. (Reserved)

(R) Terms beginning with the letter R.

*[(W)]***1.** Reasonable market demand**,** *[means]* the demand for oil or gas for reasonable current requirements for consumption and use within and without the state, together with such quantities as are reasonably necessary for building up or maintaining reasonable working stocks and reasonable reserves of oil or gas or product*[;]***.**

2. Recompletion, the process of reworking or repairing a well after its initial well completion.

3. Reference well, a well used to collect data to establish a maximum injection pressure as approved by the state geologist.

(S) Terms beginning with the letter S.

1. Seismic shot hole, a hole drilled for the purpose of generating a seismic signal to be used in the exploration or development of oil or gas or both.

2. Shut-in well, any well that has not been operated for ninety (90) calendar days or more.

3. Spacing Unit, an arbitrary block of acreage of specified size and shape for a single pool that is based on the U.S. Public Land Survey System in which only one (1) production well may be drilled for primary production that is no closer than a specified minimum distance from the unit boundary.

4. Special project, research and development of a new process or technology that increases the amount of oil or gas recoverable from a pool or improves oil or gas operations.

5. Spill or release, any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of a substance into or onto the land, air, or waters of the state, unless done in compliance with the conditions of a federal or state permit, unless the substance is confined and is expected to stay confined to property owned, leased, or otherwise controlled by the person having control over the substance.

6. Spud date, the date of first penetration of the earth with a drilling bit.

7. Storage well, a well used to inject or extract natural gas or other gaseous hydrocarbons for storage purposes.

8. Stratum or strata, a layer or layers of rock composed of substantially the same lithology that is distinctive visually from other layers above and below; often a lithologic unit.

9. Stratigraphic test well, a well drilled to obtain information on the thickness, lithology, sequence, porosity, permeability, or any other properties of rock, or to locate the position of a geologic horizon in the evaluation of potentially productive oil or gas strata and is not utilized for generating a seismic signal.

(T) Terms beginning with the letter T.

1. (Reserved)

(U) Terms beginning with the letter U.

*[(X)]***1.** Underground source of drinking water**,** an aquifer or *[its]* **any** portion*[;]* **thereof that—**

A. *[which s]***S**upplies **any private well or public water supply system; or**

B. Contains a sufficient quantity of groundwater to supply a private well or public water system; and

(I) Currently supplies drinking water for human consumption; or

(II) *[in which the water c]***C**ontains less than ten thousand (10,000) mg/l total dissolved solids; **and**

C. Is not an exempted aquifer.

2. Unitization, the contractual agreement of mineral interests owners to form a production unit through a voluntary process or order of the council, to produce oil or gas from that production unit and to designate the operator of the unit.

(V) Terms beginning with the letter V.

1. (Reserved)

(W) Terms beginning with the letter W.

*[(Y)]***1.** Waste**,** *[means and]* includes**, but is not limited to**:

*[1.]***A.** Physical waste, as that term is generally understood in the oil and gas industry, but not including unavoidable or accidental waste;

*[2.]***B.** The inefficient, excessive**,** or improper use of, or the unnecessary dissipation of**,** reservoir energy;

*[3.]***C.** The location, spacing, drilling, equipping, operating**,** or producing of any oil or gas well*[(s)]* **or wells** in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations**,** or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

*[4.]***D.** The inefficient storing of oil **or gas**;

*[5.]***E.** The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand; and

*[6.]***F.** Through negligence, the unnecessary or excessive surface loss or destruction of oil or gas resulting from evaporation, seepage, leakage**,** or deliberate combustion*[; and]***.**

2. Waters of the state, shall have the same meaning as defined in the Missouri Clean Water Law, section 644.016, RSMo.

*[(Z)]***3.** Well, any hole drilled in the earth for**,** or in connection with**,** the exploration, discovery, or recovery of oil or gas, or for*[,]* or in connection with the underground storage of gas in natural formation, or for*[,]* or in connection with the disposal of salt water, nonusable gas**,** or other waste accompanying the production of oil or gas. **Wells drilled for the production of water are regulated by the Water Well Drillers' Act, Chapter 256, RSMo, and the implementing Missouri**

Well Construction rules, 10 CSR 23. A well includes, but is not limited to, the following:

(A) Disposal well;

(B) Enhanced recovery injection well;

(C) Horizontal well;

(D) Injection well;

(E) Production well;

(F) Seismic shot hole;

(G) Storage well; or

(H) Stratigraphic test well.

4. Well stimulation treatment, a treatment of a well designed to enhance oil and gas production or recovery by increasing the secondary permeability of the geologic strata. Well stimulation is a short-term and non-continual process for the purposes of opening and stimulating channels for the flow of oil or gas or both. Examples of well stimulation treatments include hydraulic fracturing, acid fracturing, and acid matrix stimulation. Well stimulation treatment does not include routine well cleanout work; routine well maintenance; routine treatment for the purpose of removal of geologic strata damage due to drilling; bottom hole pressure surveys; routine activities that do not affect the integrity of the well or the geologic strata; the removal of scale or precipitate from the perforations, casing, or tubing; or a treatment that does not penetrate into the geologic strata more than thirty-six (36) inches from the wellbore.

5. Whipstock, a long wedge-shaped steel device or casing that uses an inclined plane to cause the bit to deflect from the original borehole at a slight angle, sometimes used in an oil or gas well to control directional drilling, to straighten crooked boreholes, or to sidetrack to avoid unretrieved items left in a well.

(X) Terms beginning with the letter X.

1. (Reserved)

(Y) Terms beginning with the letter Y.

1. (Reserved)

(Z) Terms beginning with the letter Z.

1. (Reserved)

(2) All other words used in this rule shall be given their usual customary and accepted meaning, and all words of a technical nature, or *[peculiar]* **specific** to the oil and gas industry, shall be given that meaning which is generally accepted in the oil and gas industry.

*AUTHORITY: sections 259.050, 259.140, and 259.190, RSMo [1986] **2000, and section** 259.070, **RSMo Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 22, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 1—Organization, Purpose, and Definitions

PROPOSED RULE

10 CSR 50-1.040 Enforcement Action and Appeal Procedures

PURPOSE: This rule outlines the procedures the state geologist and council will take when an alleged violation has occurred or when an operator is affected by an adverse action.

(1) The state geologist shall cause investigations to be made upon the request of the council or upon receipt of information concerning alleged violations of Chapter 259, RSMo, and implementing regulations or any standard, limitation, or order pursuant thereto, or any term or condition of any permit, and may cause to be made any other investigations consistent with the purposes of Chapter 259, RSMo.

(2) If, in the opinion of the state geologist, an investigation discloses that a violation of Chapter 259, RSMo, or implementing regulations does exist, the state geologist may issue an order as provided in section 259.070, RSMo, requiring the remediation or abatement of the specified condition(s). The order shall be served by registered mail, return receipt requested. The order shall specify the violations of Chapter 259, RSMo, or implementing regulations or any standard, limitation, or order pursuant thereto, or any term or condition of any permit violated.

(3) Any person adversely affected by an order or denial of a permit, license, or transfer issued by the state geologist may appeal the order or denial of a permit, license, or transfer to the council within thirty (30) calendar days of the date the state geologist issued the order or denial. The appeal must be sent by registered or certified mail to the chairperson of the council. The council shall treat the appeal as a contested case consistent with Chapter 259 and Chapter 536, RSMo. The council may conduct any hearing it requires to decide the appeal, or may appoint a hearing officer to make a recommended decision. If the council elects to appoint a hearing officer, the hearing officer must be a licensed attorney and a member in good standing of the Missouri Bar. The council may sustain, reverse, or modify the state geologist's order or denial of a permit, license, or transfer or may make such other orders as it deems appropriate under the circumstances, subject to rights of judicial review as provided in section 259.170, RSMo. If any order or denial of a permit, license, or transfer issued by the state geologist is not appealed within the time provided in this section, the order or denial of a permit, license, or transfer becomes final and may be enforced as provided in sections 259.200 and/or 259.210, RSMo.

AUTHORITY: sections 259.140, 259.150, 259.160, 259.170, and 259.200, RSMo 2000, and section 259.070, RSMo Supp. 2013. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-1.040 Enforcement Action and Appeal Procedure
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$176,666	$181,966	$187,425	$193,048
				Average Need (FY18-FY21)	***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
     FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 1—Organization, Purpose, and Definitions

PROPOSED RULE

10 CSR 50-1.050 Assessment of Costs

PURPOSE: This rule establishes a fee structure for activities conducted under 10 CSR 50.

(1) Beginning January 1, 2017, the following fees shall be assessed and deposited in the Oil and Gas Resources Fund:

(A) A fee of two hundred fifty dollars ($250) shall be paid upon the submittal of an application for an operator license; except that an applicant for a license who solely operates a non-commercial gas well shall pay a fee of fifty dollars ($50);

(B) A fee of two hundred fifty dollars ($250) shall be paid by each operator upon submittal of an operator license renewal form; except that an operator who solely operates a non-commercial gas well shall pay a fee of fifty dollars ($50);

(C) A fee of one hundred dollars ($100) shall be paid upon submittal of an application for a permit to drill, deepen, plug-back, or recomplete as follows:

1. Any new application for permit to drill, deepen, plug-back, or recomplete any well;

2. Any application for modification to the permit to drill, deepen, plug-back, or recomplete; or

3. Blanket requests to drill, deepen, plug-back, or recomplete wells proposed to depths no greater than one thousand five hundred feet (1500');

(D) A fee of one hundred dollars ($100) shall be paid upon submittal of an application for a permit to inject as follows:

1. Any new application for a permit to inject in any well; or

2. Any application for modification to the initial injection well permit including, but not limited to, an increase in the maximum injection pressure and/or the maximum injection rate;

3. No fee shall be assessed for a notice of permit modification as specified in 10 CSR 50-2.055(5)(B);

(E) A fee of twenty-five dollars ($25) shall be paid upon submittal of an application for extension of the shut-in status of a well;

(F) A fee of fifty dollars ($50) shall be paid upon submittal of a plugging record for each well plugged;

(G) A fee of sixty cents ($0.60) on each barrel of oil sold or marketed each month shall be assessed to each operator. The fee and assessment shall apply only to the first purchase of oil from the operator and shall be collected and submitted by the first purchaser of oil;

(H) A fee of seven and one-tenth cents ($0.071) on each one thousand (1,000) cubic feet of gas sold or marketed each month shall be assessed to each operator. The charge and assessment shall apply only to the first purchase of gas from the operator and shall be collected and submitted by the first purchaser of gas;

(I) In the event any required form or report is not submitted per Chapter 259, RSMo, or implementing regulations, a late fee of no more than one hundred dollars ($100) per month shall be assessed against the responsible party, and shall be assessed each month until the form or report has been submitted. In no case, however, will a late fee exceed one thousand two hundred dollars ($1,200) per violation for each well.

(2) Fee nonrefundable. Once paid, each fee shall be nonrefundable.

AUTHORITY: section 259.052, SS for HB 92, First Regular Session, Ninety-eighth, General Assembly, 2015, and section 259.080, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed rule will cost private entities one hundred fifty-seven thousand four hundred fifty-one dollars ($157,451) per year in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-1.050 Assessment of Costs
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$176,666	$181,966	$187,425	$193,048
			Average Need (FY18-FY21)		***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
     3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	10 CSR 50-1.050 Organization, Purpose and Definitions - Assessment of Costs
Type of Rulemaking	New Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classification by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
20	Oil or gas operators who drill, maintain, operate, or control wells associated with oil or gas production, storage, or injection projects.	$154,351 total per year
59	Non-commercial gas well operators who drill, maintain, operate or control wells associated with gas production for the sole purpose of providing gas for private domestic consumption by the owner.	$3,100 total per year

III. WORKSHEET

Type of Entity	Type of Revenue	Average Number (per year)	Fee	Total Cost (per year)
Oil or Gas Operator	Operator License Application or Renewal	20	$250	$5,000
Non-commercial Gas Well Operator	Non-commercial Gas Well Operator License Application or Renewal	59	$50	$2,950
Oil or Gas Operator	Application for Permit to Drill, Deepen, Plug-back or Recomplete a Well	304	$100	$30,400
Non-commercial Gas Well Operator	Application for Permit to Drill, Deepen, Plug-back or Recomplete a Non-commercial Gas Well	1	$100	$100
Oil or Gas Operator	Application for Permit to Inject	69	$100	$6,900
Oil or Gas Operator	Application for Shut-in Status Extension	20	$25	$500
Oil or Gas Operator	Well Plugging Record	160	$50	$8,000
Non-commercial Gas Well Operator	Non-commercial Gas Well Plugging Record	1	$50	$50
Oil or Gas Operator	Oil Production Fee (per barrel oil)	170,000	$0.60	$102,000
Oil or Gas Operator	Gas Production Fee (per MCF gas)	21,846	$0.071	$1,551
			Annual Total:	**$157,451**

IV. ASSUMPTIONS

1. Based on statistics from the past 5 years, we are assuming an average of 20 new and existing commercial oil and gas operators per year.

2. Based on statistics from the past 5 years, we are assuming an average of 59 new and existing non-commercial gas operators per year.

3. Based on statistics from the past 5 years, we are assuming an average of 304 applications for a permit to drill, deepen, plug-back or recomplete a well per year.

4. Based on statistics from the past 5 years, we are assuming an average of one application for a permit to drill, deepen, plug-back or recomplete a non-commercial gas well per year.

5. Based on statistics from the past 5 years, we are assuming an average of 69 applications for a permit to inject per year.

6. Based on statistics from the past 5 years, we are assuming an average of 20 applications for shut-in status extensions per year.

7. Based on statistics from the past 5 years, we are assuming an average of 160 wells plugged per year.

8. Based on statistics from the past 5 years, we are assuming an average of one non-commercial gas well plugged per year.

9. Based on statistics from the past 5 years and industry feedback, we are assuming an average of 170,000 barrels of oil produced and sold per year.

10. Based on statistics from the past 5 years, we are assuming an average of 21,846 thousand cubic feet (MCF) of gas produced and sold per year.

11. This cost assumes that required forms and reports will be submitted within the regulatory timeframes.

12. This cost assumes that an average of the past 5 years' statistics is representative of the highly volatile nature of oil and gas production and exploration activity in the state.

13. The proposed fee structure within the new rule, if not disapproved by the general assembly, becomes effective January 1, 2017, pursuant to Section 259.080.2.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.010 *[Organization Report]* ***Operator License***. The council is amending the title, purpose, sections (1)–(3), adding new sections (2)–(4), and renumbering as needed.

PURPOSE: This amendment changes the requirement of an organization report to a requirement for an operator license, adds the procedures and requirements for obtaining and renewing an operator license, references the required fees to be submitted, adds the conditions and procedures for suspending or revoking an operator license, and provides procedures for transferring an open well from one operator to another.

PURPOSE: This rule provides for the filing of information that identifies those responsible for oil and gas exploration, [producing] ***production*** *or related industry activities regulated by the council. The [organization report]* ***operator license*** *is required in order to properly process bonding, well permitting, producing, plugging, and other council regulated activities and to make sure that the person making application is, in fact, authorized to represent a person, firm, or corporation.*

(1) *[Prior to start of operations, each person, firm or corporation engaged in oil or gas drilling, producing or transporting or engaging in projects developed for underground storage of hydrocarbons in natural formation or developed for disposal of water, nonusable gas or other waste accompanying the production of oil or gas, shall properly execute the prescribed organization report (form OGC-1) and submit same]* **No person shall engage in oil or gas operations pursuant to Chapter 259, RSMo, and implementing regulations without first obtaining or renewing an operator license from the department. Each operator of a well or gas storage facility shall maintain a current operator license even if the well or storage facility is shut in or idle.**

(2) Application for an operator license.

(A) An application for an operator license shall be submitted to the state geologist **for approval**. *[Signatures as required on t]***This** *[form must]* **application shall** be *[notarized. The report must be filed before bonding will be approved]* **submitted on a form provided by the department along with the fee required pursuant to 10 CSR 50-1.050 and shall be completed in full**.

(B) The state geologist shall review the application for operator license and, within fifteen (15) business days, determine if the application is in proper form and if the requirements of Chapter 259, RSMo, and implementing regulations are met. If the application is incomplete or lacking required information, forms, or fees, the state geologist shall notify the applicant and suspend the application process. When the required form, information, or fee is submitted by the applicant and received by the state geologist, the fifteen (15) business day review period will begin anew. If the state geologist has not received the missing or incomplete required application information or fee within thirty (30) days after notification of the applicant, the application shall be considered null and void and the applicant must reapply by submitting a new application for an operator license along with the required fee.

1. If the state geologist finds that the application is in good form, that all requirements of the application have been met, and that Chapter 259, RSMo, and implementing regulations are being met, the state geologist shall issue the operator license.

2. If the state geologist determines either that the application is not in proper form, that the applicant failed to submit the applicable fees, or that Chapter 259, RSMo, and implementing regulations are not being met, the state geologist shall deny the application.

3. If the state geologist determines that the applicant is in violation of any provision of Chapter 259, RSMo, or implementing regulations, the state geologist may deny the application.

4. If the state geologist has not taken action by the prescribed fifteen (15) business day review period, the application shall be considered denied.

(3) License Renewal.

(A) An operator license issued pursuant to this section shall expire on January 1 of the year immediately following issuance of the license. An operator may apply to renew the operator's license by submitting an application to the state geologist for approval. This application shall be submitted on a form provided by the department, along with the fee required pursuant to 10 CSR 50-1.050, on or before January 1 each year and shall be completed in full.

(B) A late fee pursuant to 10 CSR 50-1.050 shall be paid if the renewal is submitted within thirty (30) calendar days following the expiration date. If a license has been expired more than thirty (30) calendar days, the licensee must reapply by submitting a new application for an operator license along with the required fee.

(C) If the state geologist determines that the licensee is in violation of any provision of Chapter 259, RSMo, or implementing regulations, the state geologist may deny the operator license renewal.

(4) Suspension or revocation of operator license.

(A) The state geologist may issue an order to suspend or revoke an operator license if the state geologist determines that the licensee has violated any provision of Chapter 259, RSMo, or implementing regulations.

(B) The order of suspension or revocation shall state the reason(s) for suspension or revocation, the effective date of the suspension or revocation, and the conditions under which the suspension or revocation would be rescinded. The order shall be sent registered or certified mail to the licensee's last known address. The licensee may appeal the suspension or revocation as provided in 10 CSR 50-1.040(3).

*[(2)]***(5)** After any change occurs as to facts stated in the *[report]* **application** as submitted and filed, except change of ownership, a supplementary *[report]* **application** shall be filed with the state geologist with respect to the change within thirty (30) **calendar** days after the effective date of change.

*[(3)]***(6) The operator of any open well shall comply with Chapter 259, RSMo, and implementing regulations. Any open well shall not be transferred from one (1) operator to another operator without approval of the state geologist. An operator (transferor) shall submit to the state geologist a request to transfer any open well(s) to a new operator (transferee). The request shall be submitted on a form provided by the department** *[Upon change of ownership of any well(s), producing or nonproducing, notice shall be given to the state geologist within ten (10)]* **no less than thirty (30) calendar** days *[after]* **prior to** the *[change of ownership]* **planned transfer**. **Any such request may be denied if the state geologist determines that the operator has not submitted all the required information.**

(A) The state geologist shall review the completed transfer request and, within fifteen (15) business days, approve or deny the request based upon the following conditions:

1. The transfer of the well(s) must be agreed upon by both the transferor and by the transferee;

2. The transferee must have a current operator license issued by the state geologist;

3. The transferee must have bonding as required in 10 CSR 50-2.020 in place prior to transfer;

4. The transferor shall provide a list of American Petroleum Institute (API) numbers for all open wells on the lease, spacing unit, production unit, or gas storage facility with the notice of transfer;

5. Transfers shall not be made to any person who has not complied with the provisions of 10 CSR 50-2.010;

6. The transferor may be required by the state geologist to conduct a mechanical integrity test as a condition of the transfer; and

7. Within ninety (90) days of any transfer, the transferee shall change the tank battery identification sign provided for in 10 CSR 50-2.065(1) to include the new operator information.

(B) If the form is incomplete or lacking required information, the state geologist shall notify the operator and suspend the review process. When the completed form or required information is submitted by the operator and received by the state geologist, the fifteen (15) business day review period will begin anew. If the state geologist has not received the missing or incomplete required information within thirty (30) days after notification of the operator, the request shall be considered null and void and the operator must submit a new transfer request.

(C) If the state geologist has not taken action by the prescribed fifteen (15) business day review period, the transfer shall be considered denied.

*AUTHORITY: section 259.070, RSMo [1986] **2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 10, 1979, effective Feb. 1, 1980. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-2.010 Organization Report
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$176,666	$181,966	$187,425	$193,048
				Average Need (FY18-FY21)	***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.020 Bonds. The council is amending the purpose, sections (1)–(3), and adding new sections (4)–(6).

PURPOSE: This amendment changes the bond amounts required for oil and gas wells, clarifies bonding requirements for horizontal wells, provide additional detail and requirements for the types of bonds that will be accepted, and adds procedures for replacement, release, or forfeiture of bonds.

PURPOSE: Bonding is required of an operator before commencing oil or gas drilling or operations to insure compliance with the provisions of ***Chapter 259, RSMo, and*** *the rules of the council, specifically with reference to the proper plugging for abandonment of a well(s).*

(1) Prior to commencement of *[oil or gas]* drilling or **other** operations, the *[person, firm or corporation]* **operator** commencing **such** drilling or operations shall make, or cause to be made, *[and file with the state geologist]* a good and sufficient bond for each well *[or hole and]***. The bond shall be** payable to the state of Missouri, conditioned *[for]* **upon** the performance of the duty to comply with all *[the provisions]* of the laws of the state *[of Missouri]* and the rules and orders of the *[Oil and Gas C]*council. **The bond shall be filed with the state geologist.** This bond shall remain in **full** force and effect until **a letter of release is issued by the state geologist or the bond is forfeited as provided in section (6) below. The state geologist shall issue the letter of release after** plugging of the well *[or hole is approved by the state geologist and is released by the state geologist]*, or **after** a new bond is filed by a successor *[in interest and is released by]* **and appropriate well transfer form submitted to** the state geologist **pursuant to 10 CSR 50-2.010(6)**. *[Application for release of bond shall be made by letter to the state geologist who shall release the bond if the requirements of the law and regulations have been met.]*

(2) Bond Amounts. *[Bond will be r]***R**equired *[in]* **bond amounts shall be determined by the council and shall be no less than** the following amounts *[during the entire operation of the well]*:

MINIMUM **SINGLE WELL BOND**
Depth of Well

From	To	Amount
0'	500'	$*[1000]***1,100**
501'	1000'	$*[2000]***2,200**
1001'	2000'	$*[3000]***3,300**
2001'	5000'	$*[4000]***4,400**
5001'	_____	$*[5000]***5,500** plus $*[1]***2**/ foot beyond 5001 feet

[Refer to 10 CSR 50-2.070(1)(G) for non-commercial gas well bond amounts.]

Bonds for horizontal wells shall be based on the total measured length of the wellbore from the surface to the depth of the deepest producing horizon.

MINIMUM **BLANKET WELL BOND**
Depth of Well

From	To	Amount	Number of *[Unplugged]* ***Open*** Wells/bond
0'	800'	$*[20]***22**,000	*[5]***4**0 wells
801'	1*[2]***5**00'	$*[30]***25**,000	*[15]***10** wells

Wells greater than one thousand five hundred feet (1500') in depth must be bonded individually by a single well bond.

(A) *[However, the]* **A** blanket bond amount may be increased by the single well bond amount (which varies depending on the depth of the well—see **Minimum** Single Well Bond table) for every unplugged well in excess of the maximum allowable unplugged wells per blanket bond as shown in the **Minimum** Blanket Well Bond table.

(B) **Operators of** *[A]***a**ll wells permitted prior to *[the effective date of this regulation]* **March 30, 2016,** shall *[comply with these bonding requirements no later than January 1, 1990]* **maintain existing bonding amounts for such wells until they are transferred pursuant to 10 CSR 50-2.010(6), deepened, plugged-back, or recompleted pursuant to 10 CSR 50-2.030, or plugged pursuant to 10 CSR 50-2.060(3)**.

(C) Operators of *[A]***a**ll wells permitted **or transferred** on or after *[the effective date of this regulation]* **March 30, 2016,** shall comply with *[the previously mentioned]* bonding *[requirements]* **amounts stipulated in the Minimum Single Well Bond table or the Minimum Blanket Well Bond table** prior to permit issuance **or transfer approval**.

*[(2)]***(3) Types of bonds. The state geologist may accept surety bonds, personal bonds secured by certificates of deposit, and personal bonds secured by irrevocable letters of credit.** The bond *[shall be by a corporate surety authorized to do business in the state of Missouri and]* shall be submitted on **the appropriate** form *[OGC-2]*. *[In lieu of a bond with a surety, an applicant may furnish to the council his/her own personal bond, secured by a certificate of deposit in an amount equal to that of the required surety bond. The personal bond shall be submitted on form OGC-2A.]* When the bond is filed, the state geologist shall *[immediately]* review the bond and if the bond is in proper form, the state geologist shall *[approve]* **accept** the bond with the conditions which may be required by the council or by rule. **If the bond is determined to be insufficient or not in proper form, the state geologist shall notify the operator.** No drilling or operation shall commence or continue unless there is **a sufficient bond** on file *[a bond approved by]* **with** the state geologist.

(A) Surety bonds shall be subject to the following conditions:

1. Only irrevocable surety bonds shall be accepted. No bond of a surety company shall be cancelled for any reason whatsoever, including, but not limited to, nonpayment of premium, bankruptcy, or insolvency of the operator or issuance of notices of violations or cessation orders and assessment of penalties with respect to the operations covered by the bond, except that surety bond coverage for wells not drilled may be cancelled if the surety provides written notification and the state geologist is in agreement. The state geologist shall advise the surety, within thirty (30) days after receipt of a notice to cancel bond, whether the bond may be cancelled;

2. A surety company's bond shall not be accepted in excess of ten percent (10%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

3. The total amount of the bonds issued by a surety on behalf of any operator shall not exceed thirty percent (30%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

4. The surety shall be licensed to conduct a surety business

in Missouri;

5. Both the surety and the operator shall be primarily liable for completion of any remedial actions, including, but not limited to, well plugging, with the surety's liability being limited to the amount of the bond;

6. The bond shall provide that—

A. The surety will give prompt notice to the operator and the state geologist of any change in corporate ownership or name or address of the surety company, or any notice received or action filed alleging the insolvency or bankruptcy of the surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's license to do business; and

B. In the event the surety becomes unable to fulfill its obligation under the bond for any reason, notice shall be given immediately to the operator and the state geologist; and

7. The bond shall provide a mechanism for a surety company to give prompt notice to the state geologist and the operator of any change in corporate ownership or name or address of the surety company, or any action filed alleging the insolvency or bankruptcy of the surety company, or the operator, or alleging any violations which would result in suspension or revocation of the surety license to do business. Upon the incapacity of a surety by reason of bankruptcy or insolvency, or suspension or revocation of its license, the operator shall be deemed to be without bond coverage in violation of section (1) and shall promptly notify the state geologist. The state geologist, upon notification of the surety's bankruptcy or insolvency, or suspension or revocation of its license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a thirty- (30-) day period to replace bond coverage. If the bond is not replaced in thirty (30) days, an order shall be issued by the state geologist requiring immediate cessation of operations. Operations shall not resume until the state geologist has determined that an acceptable bond had been posted.

*[(3)]***(B)** Personal bonds **secured by certificates of deposit** shall be subject*[ed]* to the following conditions:

1. The certificate(s) shall be in the amount of the bond or in an amount greater than the bond and shall be made payable to or assigned to the state of Missouri, both in writing and upon the records of the institution issuing the certificates, and shall be automatically renewable at the end of the term of the certificate. If assigned, institutions issuing the certificate(s) waive all rights of set off or liens against the certificate(s);

2. No single certificate of deposit shall exceed the sum of two hundred fifty thousand dollars ($250,000) nor shall any permittee submit certificates of deposit aggregating more than two hundred fifty thousand dollars ($250,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation from a single institution.

[(A)] The institution issuing the certificate of deposit must be insured by the Federal Deposit Insurance Corporation (FDIC) *[or the Federal Savings and Loan Insurance Corporation (FSLIC)]*;

[(B) Only automatically renewable certificates of deposit will be accepted; and]

*[(C)]***3.** Any interest on the certificates of deposit shall be made payable to the *[permittee.]* **operator;**

4. The certificate of deposit shall be kept until the bond is released by the state geologist;

5. The institution issuing the certificate(s) of deposit for bonding purposes shall give prompt notice to the state geologist and the operator of any change in corporate ownership, name, or address of the institution, and any insolvency or bankruptcy of the institution; and

6. The bond shall provide a mechanism for an institution to give prompt notice to the state geologist and the operator of any change in corporate ownership, name, or address of the institution, any action filed alleging the insolvency or bankruptcy of the institution or the operator, or alleging any violations which would result in suspension or revocation of the institution charter or license to do business. Upon the incapacity of any institution by reason of insolvency or bankruptcy, or suspension or revocation of its charter or license, the operator shall be deemed to be without bond coverage in violation of section (1). The state geologist, upon notification of the institution's bankruptcy or insolvency, or suspension or revocation of its charter or license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a thirty- (30-) day period to replace bond coverage. If the bond is not replaced in thirty (30) days, an order shall be issued by the state geologist requiring immediate cessation of operations. Operations shall not resume until the state geologist has determined that an acceptable bond has been posted.

(C) Personal bonds secured by letters of credit shall be subject to the following conditions:

1. The letter of credit shall be no less than the face amount of the bond and shall be irrevocable. A letter of credit used as security shall be forfeited and shall be collected by the state geologist if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date;

2. The beneficiary of the letter of credit shall be the state of Missouri;

3. The letter of credit shall be issued by a bank authorized to do business in the United States. If the issuing bank is located in another state, a bank located in Missouri must confirm the letter of credit. Confirmations shall be irrevocable and on a form provided by the department;

4. The letter of credit shall be governed by Missouri law. The Uniform Customs and Practice for Documentary Credits, fixed by the International Chamber of Commerce, shall not apply;

5. The letter of credit shall provide that the state geologist may draw upon the credit by making a demand for payment, accompanied by his/her statement that the council has declared the operator's bond forfeited;

6. The issuer of a letter of credit or confirmation shall warrant that the issuance will not constitute a violation of any statute or regulation which limits the amount of loans or other credits which can be extended to any single borrower or customer or which limits the aggregate amount of liabilities which the issuer may incur at any one (1) time from issuance of letters of credit and acceptances;

7. The bank issuing the letter(s) of credit for bonding purposes shall give prompt notice to the state geologist and the operator of any change in corporate ownership, name, or address of the institution, or any insolvency or bankruptcy of the bank; and

8. The bond shall provide a mechanism for a bank to give prompt notice to the state geologist and the operator of any change in corporate ownership, name, or address of the institution, any action filed alleging the insolvency or bankruptcy of the bank or the operator, or alleging any violations which would result in suspension or revocation of the bank's charter or license to do business. Upon the incapacity of any bank by reason of insolvency or bankruptcy, or suspension or revocation of its charter or license, the operator shall be deemed to be without bond coverage in violation of section (1). The state geologist, upon notification of the bank's bankruptcy or insolvency, or suspension or revocation of its charter or license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a thirty (30) day period to replace bond coverage. If the bond is not replaced in thirty (30) days, an order shall be issued by the state geologist requiring immediate cessation of operations. Operations shall not resume until the state geologist has determined that an acceptable bond has been posted.

(4) Replacement of bonds. Operators may replace existing surety or personal bonds with other surety or personal bonds. Existing bonds will not be released until the operator has submitted and the state geologist has approved acceptable replacement bonds.

(5) Bond Release. Application for release of a bond shall be made by written notice to the state geologist who shall release the bond if the requirements of Chapter 259, RSMo, and implementing regulations have been met.

(6) Bond Forfeiture.

(A) If an operator fails to comply with an order of the state geologist, the state geologist shall issue an order declaring all applicable bonds to be forfeited.

(B) If a well is abandoned, plugged, or determined to have not been drilled, and the operator does not respond within six (6) months to reasonable attempts by the state geologist to contact that operator via information provided, the state geologist shall issue an order declaring the applicable bond forfeited.

(C) If the state geologist determines that the surety or issuer of a letter of credit or certificate of deposit desires to, and is capable of, completing remedial actions, including, but not limited to, well plugging, the state geologist, under additional terms and conditions as deemed necessary by the state geologist, may enter into an agreement with the surety or issuer of a letter of credit or certificate of deposit on a set schedule of compliance in lieu of collection of the forfeited bond. The remedial actions shall be in accordance with a compliance schedule that meets the conditions of the state geologist. The performer of remedial actions shall also demonstrate that they have the ability to satisfy the conditions. If the surety or issuer of a letter of credit or certificate of deposit fails to complete the remedial actions according to the schedule of compliance, the state geologist shall take action to collect the forfeited bond and any instruments securing the bond.

(D) The entry of an order declaring a bond forfeited shall automatically authorize the state geologist, with the assistance of the attorney general, if necessary, to take whatever actions are necessary to collect the forfeited bond and any instruments securing the bond. The forfeited bond shall be deposited into the Oil and Gas Remedial Fund and utilized according to 10 CSR 50-2.060(3)(E).

*AUTHORITY: section 259.070, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities twenty-four thousand six hundred sixteen dollars ($24,616) per year in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO.Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50 - 2.020, Oil and Gas Drilling and Production - Bonds
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classification by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
20	Oil or gas operators who drill, maintain, operate, or control wells associated with oil or gas production, storage, or injection projects.	$0 to update bonding for existing wells & $23,784 per year in *increased* bonding costs for future wells
59	Non-commercial gas well operators who drill, maintain, operate or control wells associated with gas production for the sole purpose of providing gas for private domestic consumption by the owner.	$0 to update bonding for existing wells & $832 per year in *increased* bonding costs for future wells

III. WORKSHEET

1. Proposed 10 CSR 50-2.020 will result in an estimated 15.75 percent increase in overall commercial well bonding expenditure, and a 60 percent average increase in overall non-commercial gas well bonding expenditure. Cost analysis is below:
   a. Average cost per year to meet current commercial bond requirements is $151,008 based on the past 10 years statistics. 15.75% x $151,008 = $23,783.76 cost increase
   b. Average cost per year to meet current non-commercial gas well bond requirements is $1,387 based on the past 10 years statistics. 60% x $1,387 = $832 cost increase to non-commercial operators

2. Although the proposed bond requirements statistically represent closer to a 25 percent cost increase, they allow for more flexibility in the number and depth of wells they cover. To determine a 15.75 percent overall cost increase to bond requirements, we applied the proposed bond requirements to our current operators and their wells. Then we calculated the percent increase relative to their current bonding.

3. **Figure 1** is the proposed bonding structure. In **Figure 2**, this bonding structure is applied to each operator's existing wells to determine a 15.75 percent cost increase. The Future Bonding fields represent the least expensive method of bonding the wells under the proposed structure.

Figure 1

MINIMUM SINGLE WELL BOND
Depth of Well

From	To	Amount
0'	500'	$1,100
501'	1000'	$2,200
1001'	2000'	$3,300
2001'	5000'	$4,400
5001'	_____	$5,500 plus $2/ foot beyond 5001 feet

Bonds for horizontal wells shall be based on the total measured length of the wellbore from the surface to the depth of the deepest producing horizon.

MINIMUM BLANKET WELL BOND
Depth of Well

From	To	Amount	Number of Open Wells/bond
0'	800'	$22,000	40 wells
801'	1500'	$25,000	10 wells

Wells greater than one thousand five hundred feet (1500') in depth must be bonded individually by a single well bond.

Figure 2

Bonding Comparison

Operator	# wells < 800'	# wells > 800' & <1500'	# wells > 1500'	Current Total Bonding $	Future Blanket Bonding $	Future Individual Bonding $	Total Future Bonding $	Difference $ (Future-Current)
Arrow Oil Services, LLC	92	0	0	$40,000.00	$44,000.00	$13,200.00	$57,200.00	$17,200.00
Blue Tip Missouri Energy	32	0	0	$20,000.00	$22,000.00	$0.00	$22,000.00	$2,000.00
Colt Energy*	140	4	1	$100,000.00	$88,000.00	$15,400.00	$103,400.00	$3,400.00
Encore Energy Partners	13	0	0	$20,000.00	$22,000.00	$0.00	$22,000.00	$2,000.00
Investment Equipment	0	12	11	$83,000.00	$25,000.00	$50,600.00	$75,600.00	-$7,400.00
JTC Oil	33	0	0	$20,000.00	$22,000.00	$0.00	$22,000.00	$2,000.00
KRED*	507	8	0	$238,000.00	$311,000.00	$0.00	$311,000.00	$73,000.00
L.T. Oil	87	0	0	$40,000.00	$44,000.00	$7,700.00	$51,700.00	$11,700.00
Laclede Gas*	8	13	8	$70,000.00	$25,000.00	$47,300.00	$72,300.00	$2,300.00
Laclede Oil Services*	0	3	0	$12,000.00	$0.00	$9,900.00	$9,900.00	-$2,100.00
Palo Petroleum*	39	0	0	$36,000.00	$22,000.00	$0.00	$22,000.00	-$14,000.00
Petro River Oil*	75	0	0	$40,000.00	$44,000.00	$0.00	$44,000.00	$4,000.00
Running Foxes Petroleum	175	1	0	$83,000.00	$110,000.00	$0.00	$110,000.00	$27,000.00
S&B Operating	44	0	0	$20,000.00	$22,000.00	$8,800.00	$30,800.00	$10,800.00
SCZ Resources	14	1	0	$20,000.00	$22,000.00	$3,300.00	$25,300.00	$5,300.00
TNT Energy	70	0	0	$40,000.00	$44,000.00	$0.00	$44,000.00	$4,000.00
Warrior Operating	14	0	0	$20,000.00	$22,000.00	$0.00	$22,000.00	$2,000.00
Zero CO2	14	0	0	$20,000.00	$22,000.00	$0.00	$22,000.00	$2,000.00

*KRED is currently overbonded. They could reduce current bonding to $238,000. (fixed for statistical purposes)

*Laclede Oil Services is overbonded for their horizontals per the new rules.

*Palo is overbonded for their horizontals per the new rules.

*Petro River has $80k in bonding currently but they lost a lease that Arrow now owns; they are overbonded. (fixed for statistical purposes)

Total Difference: $145,200.00
Total % Difference: 15.7483731

IV. ASSUMPTIONS

1. Based on statistics from the past 5 years, we are assuming an average of 20 new and existing commercial oil and gas operators per year.

2. Based on statistics from the past 5 years, we are assuming an average of 59 new and existing non-commercial gas operators per year.

3. Based on statistics from the past 10 years, we are assuming the average cost to meet current commercial bond requirements is $151,008 per year.

4. Based on statistics from the past 10 years, we are assuming the average cost to meet current non-commercial gas well bond requirements is $1,387 per year.

5. We are assuming a 15.75 percent is an accurate and realistic representation of the cost increase to operators in any given year.

6. This cost assumes that and average of the past 10 years' statistics is representative of the highly volatile nature of oil and gas production and exploration activity in the state.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.030 Application for Permit to Drill, Deepen, Plug-Back, or *[Inject]* *Recomplete*. The council is amending the title, purpose, sections (1), (5), (6), (11), (12), and (14), deleting sections (2)–(6), (8), (10), and (13), adding sections (2)–(4), and (10), and renumbering as needed.

PURPOSE: This amendment separates the application for a permit to drill, deepen, plug-back or recomplete from the application for a permit to inject, which is now a separate permit required under proposed new rule 10 CSR 50.2-055. This amendment also references the required fees to be submitted, clarifies the information to be submitted with the application, adds the ability for an operator to move an approved drilling location up to fifty feet (50'), provides additional detail on the application review process and subsequent approval or denial, specifies the duration of the permit, and requires the well name and number to be permanently assigned to the well.

PURPOSE: This rule provides for information needed for the permitting of drilling of new wells or reworking existing wells and establishes procedures for the determination of their locations (distances from [property] ***unit*** *lines, other producing wells, etc.), according to classifications of the well(s). It also establishes procedures to be followed by the state geologist in issuing or denying permits [and legal recourse available to an applicant in case of denial]. [The rule further provides for the revocation of permits by the council after a hearing in the event that state laws or council rules have been violated, or if fraud, misrepresentation, etc., were used to initially obtain a permit.]*

(1) Prior to commencement of operations, application for a permit *[must be made with]* **to drill, deepen, plug-back, or recomplete any well shall be submitted to and approved by** the state geologist *[on form OGC-3 or OGC-3-I (for injection wells) as prescribed by the council]. [An organization report (form OGC-1)]* **The required operator license** and bond *[(form OGC-2)]* must be on file in the office of the state geologist or must accompany the application.

[(2) An accurate well location survey must accompany the application. The plat shall show the distance from the two (2) nearest section lines to the well. The plat of survey shall show the distance of the well from the nearest lease line and from the nearest producing, drilling or abandoned well on the same lease. The geographic coordinates of the well shall be shown along with the method used to obtain the coordinates and statement of positional accuracy of the coordinates. The plat of survey shall be prepared by a Missouri professional land surveyor and shall meet the current "Minimum Standard Requirements for Property Boundary Surveys" defined in 10 CSR 30-2.010. Form OGC-4 or OGC-4-I, for injection wells, (see section (3)) must accompany the application. A confirmation well and/or additional development wells may be exempted from a minimum standards survey at the discretion of the council. A well location map, as here and after described, may be substituted in lieu of the previously mentioned plat of survey. The applicant shall provide a well location map and well reference sketch or the geographic position of the well prepared according to the specifications in 10 CSR 50-2.030(2)(A). The well location map shall be drawn to a scale of one inch (1") equals one hundred feet (100'), one inch (1") equals two hundred feet (200') or one inch (1") equals four hundred feet (400'). A copy of the current ownership map maintained by the county tax assessor shall be acceptable. The quarter-quarter section, governmental lot, or United States Survey, along with the governmental section, township and range shall be stated on the well location map. The location map shall show the approximate location of the well within the section or quarter section, the approximate distance to the nearest perceived lease line or perceived boundary line and the names of the owners of the property on which the well is located and all adjoining property owners. The well reference sketch shall show the location of the well and its relationship (bearing and distance preferred), where possible, to four (4) durable objects to provide a permanent location of the well. Durable objects include, but are not restricted to, house corners (fully describe), marks on concrete structures or pavement, marks on ledge or bedrock, trees and set monuments. The reference sketch shall show the approximate distance of the well from existing streets or perceived boundary lines shown on the location map. It shall also show the house number of any houses shown on the sketch along with all street names. Both the location map and the reference sketch shall show a north arrow and a scale. Form OGC-4 or OGC-4-I, for injection wells, (see section (3)) must accompany the application.

(A) A well location map conforming to the scale and distance requirements specified in 10 CSR 50-2.030(2) along with the geographic position of the well may be used in lieu of a well reference sketch. The geographic coordinates shall be latitude and longitude based on the North American Datum of 1983 (NAD 83) and resolved, at a minimum, to the nearest one-tenth (.10) of a second: i.e., latitude 38° 42′ 54.2" North, longitude 90° 37′ 15.8" West. The coordinates shall have a minimum positional tolerance of three (3) meters. Any well that a minimum standards survey reveals not to meet the minimum distance requirements shall not be approved for completion or production.

(3) Upon application for an injection well, an accurate location plat (form OGC-4-I) must accompany the application. The plat shall be drawn neatly and to scale and shall show the distance of the well from the nearest lease line and from the two (2) nearest section lines to the well. If the well is drilled on acreage that has been pooled with other land, distance to nearest boundary of the pooled acreage must also be shown. The plat shall also show the area of review for the applicant well and all area of review wells of public record that penetrate the injection interval. Descriptions, of the area of review wells, that penetrate the injection interval shall be included on the back of the form OGC-4-I. These descriptions shall include lease name, well number, location, owner, depth, type (oil, gas, etc.), date spudded, date completed and construction of the wells. Each area of review well shall be uniquely marked or numbered.

(4) A neat, accurate schematic diagram of the applicant injection well(s) and relevant surface equipment shall be submitted on form OGC-11 before application will be processed. This schematic diagram shall include the following: configuration of well head; total depth and/or plug-back total depth; depth of all injection or disposal intervals and their formation names; lithology of all formations penetrated; depths of the tops and bottoms of all casing and tubing; size and grade of all casing and tubing; type and depth of packer; depth, location and type of all cement; depth of all perforations and squeeze jobs; and geologic name and depth to bottom of all underground sources of drinking water which may be affected by the injection.

(5) The applicant for an injection well(s) shall publish a

notice of application in a newspaper of general circulation in the county in which the proposed injection well(s) will be located. The applicant shall submit a copy of the newspaper notice to the state geologist before the public hearing or administrative approval is granted. The notice shall include the name and address of applicant, location of proposed well(s), geologic name and depth of injection zone, a description of the need for the injection well(s) and the address of the office of the state geologist, where additional information may be obtained. There shall be a fifteen (15)-day written comment period (comments to be sent to the office of the state geologist). If within this period the state geologist determines that a significant degree of public interest is expressed, or other factors indicate the need for a public hearing, the state geologist may order a hearing. Public notice will be provided with a hearing date set for no sooner than thirty (30) days after the date of notice. If no public hearing is ordered, the application will be processed without further delay. A record will be kept of all written comments received and the responses to these comments.

(6) Upon application, the state geologist may waive the initial requirement for a minimum standards survey for non-commercial gas wells (wells drilled for the sole purpose of furnishing gas for private consumption by the owner and not for resale or trade). A permit application (OGC-3) shall include form which enables the state geologist to determine if minimum distance requirements to property or lease boundaries can be met before issuing a permit for drilling. If gas supplies are found to be present in sufficient quantities to be utilized, a minimum standards survey and plat of survey or a location map showing the geographic coordinates as described in 10 CSR 50-2.030(2)(A) and conforming to the scale, distance and format requirements specified in 10 CSR 50-2.030(2) of this rule will then be required to ensure compliance with distance requirements before any production can be initiated. Any well, that a minimum standards survey reveals not to meet minimum distance requirements shall not be approved for completion or production of gas.]

(2) The application for a permit to drill, deepen, plug-back, or recomplete shall be submitted on a form provided by the department along with the fee required pursuant to 10 CSR 50-1.050 and shall be completed in full.

(3) All applications shall be accompanied by a completed well location form and an accurate well location map.

(A) The location map shall show the following:

1. Approximate location of the well within the section or quarter section;

2. Approximate distance to the nearest existing or proposed well;

3. Approximate distance to the nearest perceived spacing unit line or production unit line;

4. Names and addresses of the owners of the property on which the well is located;

5. A north arrow and a scale; and

6. For a horizontal well, the proposed location of the wellbore's path and terminus.

(B) The proposed well location shall be provided using latitude and longitude based on the North American Datum of 1983 (NAD 83) and expressed in the decimal form to the fifth place. Any well that is found to not meet the minimum location requirements upon completion may be ordered to be plugged by the state geologist.

(C) A drilling location may be moved up to fifty feet (50') from the approved location, if the new location does not violate spacing or setback requirements, without filing a revised permit application. Such changed location shall be noted on the well completion report.

(4) Seismic shot holes. Seismic operations shall not initiate new fractures or propagate existing fractures in the confining strata of underground sources of drinking water.

*[(7)]***(5)** An *[owner]* **operator** engaged in drilling *[development]* wells to depths no greater than *[eight]* **one thousand five** hundred feet (*[800]***1500**') may request that the state geologist approve prospective well locations on a blanket basis *[on a single lease]*. **The fee required pursuant to 10 CSR 50-1.050(1)(C)3. shall be submitted with the request. Blanket requests must be associated with an established production unit. Bonding must be in place for all proposed wells in the blanket request.** The request shall be accompanied by a plat of the entire *[lease]* **production unit**, indicating **the unit boundaries,** the location of and identifying by number all wells which have been drilled or are proposed, using appropriate symbols to distinguish between them; the plat shall conform to the scale and distance requirements specified in section (*[2]***3**) of this rule. In the event the state geologist approves the blanket requests, the approved locations may be drilled in the *[owner's]* **operator's** order of preference, provided that a permit application *[(OGC-3)]* **and fee required pursuant to 10 CSR 50-1.050(1)(C)1.** for each well commenced shall be sent to the state geologist within twenty-four (24) hours**, or the next business day,** after the commencement of drilling of each well.

[(8) An owner, company, firm or corporation engaged in drilling small diameter (less than five inch (5")) drill holes and core holes for stratigraphic purposes and which will not be used for the actual recovery of hydrocarbons, upon written request to the state geologist, may be granted permission to file individual well permit applications (OGC-3) and location plats (OGC-4) not later than three (3) days after the well has been drilled, and further may obtain a waiver of spacing requirements in 10 CSR 50-2.070, provided that—

(A) An organization report (OGC-1) has been properly executed and approved according to 10 CSR 50-2.010;

(B) Bonding has been executed and approved according to 10 CSR 50-2.020; and

(C) All other requirements in regard to drilling, plugging and abandonment are met.]

*[(9)]***(6)** Upon application for a permit **to drill, deepen, plug-back, or recomplete,** the state geologist shall review the application and, within fifteen (15) **business** days, determine if the application is in proper form and if the requirements of *[the law and the rules]* **Chapter 259, RSMo, and implementing regulations** are met. **If the application is incomplete or lacking required information, forms, or fees, the state geologist shall notify the operator and suspend the application process. When the required form, information, or fee is submitted by the operator and received by the state geologist, the fifteen (15) business day review period will begin anew. If the state geologist has not received the missing or incomplete required application information or fee within thirty (30) days after notification of the operator, the application shall be considered null and void and the operator must reapply by submitting a new application for a permit to drill, deepen, plug-back, or recomplete, along with the required fee.**

(A) If the state geologist finds that the application is in good form**, that all requirements of the application have been met,** and that *[the laws]* **Chapter 259, RSMo, and implementing regulations** are being met *[s/he]***, the state geologist** shall issue the permit.

(B) If *[s/he]* **the state geologist** determines *[that]* either **that** the application is not in proper form**, that the operator failed to submit the applicable fees,** or that *[the law of the rules]* **Chapter 259, RSMo, and implementing regulations** are not being met**,** *[s/he]*

the state geologist shall deny the permit.

(C) If the state geologist finds that the drilling of a well at the proposed site would be an undue risk to the surface or subsurface environment, *[s/he]* **the state geologist** shall deny the permit.

(D) If the state geologist determines that *[prior wells drilled by the operator have been abandoned and have not been plugged in an approved manner, s/he shall]* **the operator is in violation of any provision of Chapter 259, RSMo, or implementing regulations, the state geologist may** deny the permit.

[(A) Upon denial of a permit, the applicant may appeal within thirty (30) days of the notice of the denial to the state council and a hearing shall be held as provided by law.

(B) After the hearing the council shall either issue the permit or deny the permit. If the council denies the permit an appeal may be taken to the circuit court as provided by law.

(10) Permits may be revoked by the council upon a finding after a hearing as provided by law that any provision of the law, rules or conditions of the permit have been violated or that any fraud, deceit or misrepresentation was made to obtain the approval of the permit. Appeals of any decision of the council may be taken as provided by law.]

*[(11)]***(7)** Permits **for drilling wells** are not **in any way** transferable *[to any other person, firm or corporation or to any other location]***; however, any open well or the authority to inject for existing wells may be transferred to another operator according to 10 CSR 50-2.010(3)**.

*[(12)]***(8)** *[Unless operations]* **Permits** to drill**, deepen, plug-back, or recomplete** a single well are *[commenced within one hundred eighty (180) days]* **valid for one (1) calendar year** after date of approval*[, the approval to drill will become null and void]*. **If the operator opts not to drill the well, a notice to cancel well permit application shall be submitted to the state geologist no later than thirty (30) calendar days following the end of the one- (1-) year permitted period.**

[(13) Before commencing drilling operations, a drilling contractor engaged by an owner or operator for the drilling of a well shall confirm that an approved drilling permit has been obtained by the owner or operator. The drilling contractor's confirmation shall consist of the placement of his/her signature and date of signature, in ink, on the owner's approved permit. A drilling contractor shall not commence drilling operations unless an approved permit to drill the well has been obtained by the owner or operator and confirmed by the drilling contractor's signature.]

*[(14)]***(9)** Prior to any *[substantial]* change or modification of *[the physical characteristics or method of operation of any well subject to these regulations, or change in the nature of wastes disposed of therein, the owner or operator of the facility shall submit a revised application form to]* **a permit, or any change in the operation of a well subject to these regulations, the operator shall notify** the state geologist, identifying the well name, location, the proposed change**,** and a full explanation of the nature of the change*[, to the state geologist]*. **An appropriately revised permit application or application for permit for well recompletion along with the fee required pursuant to 10 CSR 50-1.050 shall be submitted to the state geologist for approval, except as provided in subsection (3)(C).** No modification or change in operation shall *[be commenced]* **begin** until the state geologist has reviewed and approved the *[written notification]* **revised application**. The state geologist shall *[have a minimum of fifteen (15) days to]* **review and** respond to the notification *[and the]* **within** fifteen (15)*[-]* **business** days**. The** review period shall be suspended if additional information is necessary to effectively review the *[information]* **application**. *[The term "substantial change or modification" shall mean any change in operation which may affect an underground source of drinking water, or otherwise alter the operation of the well so that its operation is not consistent with the existing permit.]* **When the required form or information is submitted by the operator and received by the state geologist, the fifteen (15) business day review period will begin anew.**

(10) The well name and number entered on the permit application will be permanently assigned to the well and no changes will be approved to this information in the event of well or mineral interest transfers.

*AUTHORITY: sections 259.060, 259.080, and 259.140, RSMo 2000, **and section** 259.070, **RSMo Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.040 Drilling and Completion. The council is amending the purpose, sections (1)–(4), deleting sections (5)–(12), and adding new sections (5)–(13).

PURPOSE: This amendment clarifies the casing and cementing requirements, requires casing materials to be steel, specifies requirements for tubingless or packerless completions, adds requirements for multiple-completed wells, clarifies the requirement for a pressure observation valve at the wellhead of an injection well, adds the requirement to maintain documentation of cementing operations, specifies the timeframe for which a stratigraphic test well must be plugged, and requires permanent signage at each well site.

*PURPOSE: One of the important functions of the council is to prevent [produced salt water from contaminating either surface or underground fresh water resources] **the contamination of the waters of the state**. [When an oil or gas well is drilled, the bit usually penetrates fresh water strata at relatively shallow depths.] **In Missouri, an underground source of drinking water may occur either above or below an oil and gas reservoir.** This groundwater is commonly the only source of water for irrigation [or for] **and** animal and human consumption. This rule provides procedures for protecting all [fresh] waters **of the state** and [for] **to create** acceptable safety standards for wells and surface installations [so that the wild and uncontrolled flow of gusher wells or blowouts can*

be prevented]. Plugging of wells when they are abandoned is consistent with a statewide effort to prevent contamination of waters ***of the state*** *[resources] and [would also be]* ***additionally is*** *important [should a given]* ***in*** *areas proven to be productive [as in secondary recovery activity]* ***using enhanced recovery methods****.*

(1) During the drilling of any well, surface casing *[will]* **shall** be set *[at the depth indicated on form OGC-3 or form OGC-3-I which has been approved by the state geologist and will be cemented from the setting depth to the surface. Before the bottom plug is drilled or before tests are initiated, the surface casing will stand cemented for the following periods of time: neat cement, for twenty-four (24) hours; neat cement with one percent (1%) $CaCl_2$, for twelve (12) hours; neat cement with two percent (2%) $CaCl_2$, for ten (10) hours; neat cement with three percent (3%) $CaCl_2$, for eight (8) hours; and neat cement with four percent (4%) $CaCl_2$, for six (6) hours. If other additives are to be used in the cement, the operator must contact the staff of the office of the state geologist for setting times appropriate for that particular cement.]* **as follows, except as otherwise required or approved by the state geologist as indicated on the approved permit to drill, deepen, plug-back, or recomplete:**

(A) Through all unconsolidated material plus twenty feet (20') into the underlying competent bedrock; or

(B) In areas where underground sources of drinking water are present above the production or injection zone(s), at a point at least fifty feet (50') below the base of the deepest known underground source of drinking water penetrated.

(2) All casing materials shall be steel or other material of equal or greater strength approved by the state geologist and able to withstand collapse and burst pressures that the well might encounter.

*[(2)]***(3)** All wells drilled *[for oil, gas or injection]* shall be completed with **tubing, packer, and** a string(s) of casing which shall be properly cemented at sufficient depths to protect all water, oil**,** or gas bearing strata and shall prevent their contents from passing into other strata. *[In the event wells are drilled with cable tools, temporary protective casing strings may be left uncemented. The specific casing and cementing requirements for injection wells shall be based on the depth to the base of the underground source of drinking water, the nature of the injected fluids and the hydraulic relationship between the injection zone and the base of the underground source of drinking water. (3) In certain instances, 10 CSR 50-2.040(3) shall modify 10 CSR 50-2.040(1) as follows: In]* **For** wells drilled to producing *[formations]* **strata** at a depth of no greater than *[eight]* **one thousand five** hundred feet (*[800]***1500**'), *[the state geologist may approve owner's request to]* **an operator may** set a single casing string *[and to cement the string by placing sufficient cement to fill annular space no less than approximately forty feet (40') above the top of the producing horizon.]* **with no tubing or packer, if the well is cemented from the bottom of the casing to the surface to seal off and protect any underground source of drinking water. The state geologist may approve other methods of cementing casing in a well.**

(4) *[During drilling and following completion of wells, surface well and producing installations shall conform to accepted safety standards.]* **Cement shall be used in setting all casing or sealing off producing strata, underground porosity gas storage strata, or underground sources of drinking water. Cement shall be installed from the bottom to the top of the casing in one (1) continuous operation using pressure grouting techniques. The cement must be placed in a minimum one inch (1") annulus between strings of casing or the casing and borehole. The cement shall be maintained at surface level. Before the bottom plug is drilled or before tests are initiated, the surface casing shall stand cemented and further operations shall not begin until the cement has been in place for at least eight (8) hours and has reached a compressive strength of three hundred (300) pounds per square inch. These requirements may be modified by the state geologist.**

[(5) Whenever operations shall cease for a period of ninety (90) days on any well, the owner or operator of the well shall give notice to the council and, if the council shall deem it necessary to prevent the pollution of any fresh water strata or supply, shall cause the well to be temporarily plugged in accordance with the rules of the council and under its direction. If the operations on any well are not recommenced within a period of six (6) months after notice has been given, the well shall be deemed a permanently abandoned well and the owner or operator shall comply with the rules relating to the plugging and abandonment of wells. Provided, that upon application to the council prior to the expiration of the six (6)-month period and for good cause shown, the council may extend the period for an additional six (6) months and in like manner the council may grant additional six (6) month extensions, but the total time of such consecutive extensions shall not exceed two (2) years, unless a mechanical integrity test is performed as outlined in 10 CSR 50-2.040(6) and the well capped at the surface, before the end of the two (2)-year extension period. The council may then permit the well to remain inactive status for a maximum of five (5) years and if not returned to active status within this time the well must be plugged.

(6) All new or newly converted injection wells shall be required to demonstrate mechanical integrity as defined by 10 CSR 50-1.030(1)(O) before operation may begin. All wells not permanently plugged and abandoned must demonstrate mechanical integrity at least every five (5) years for the absence of significant leaks from the outermost casing and the absence of significant fluid movement in vertical channels adjacent to the well bore. Demonstration of the absence of significant leaks shall utilize at least one (1) of the following procedures: A pressure test with liquid or gas, monitoring of annulus pressure in wells injecting at a positive pressure following an initial pressure test or any other test(s) that the state geologist considers effective. Demonstration of the absence of significant fluid movement in vertical channels adjacent to the well bore shall utilize at least two (2) of the following procedures: Cementing records (reviewed only once for the life of the well), tracer surveys, noise logs, temperature surveys or any other test(s) that the state geologist considers effective.

(7) A maximum injection pressure for injection wells shall be established by the state geologist so that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the confining zone. The injection pressure also should not cause the injected fluid to migrate into an underground source of drinking water.

(8) All logs and other test data shall be sent to the state geologist before operation may begin. The state geologist shall inform the operator of a satisfactory or unsatisfactory demonstration of mechanical integrity by mail or telephone without delay.

(9) In order to insure that all existing injection wells are properly tested for mechanical integrity as required by federal regulation, at least one-fifth (1/5) of each operator's injection wells drilled in Missouri prior to the State Underground

Injection Control Program must demonstrate mechanical integrity as defined in 10 CSR 50-2.040(6) each year for the first five (5) years of the program. All injection wells, including new wells and newly converted wells must demonstrate mechanical integrity every five (5) years.

(10) If a well cannot demonstrate mechanical integrity the operator must cease operation of the well and immediately inform the state geologist. If corrective action cannot restore mechanical integrity within thirty (30) days after notification, the operator shall again notify the state geologist, who may grant an additional thirty (30) days before ordering the well to be plugged.

(11) The state geologist or an authorized representative shall have the authority to sample injected fluids at any time during injection operations.

(12) The operator is required to provide a one-fourth inch (1/4") female fitting, with cut-off valve, to the tubing to all wells drilled and completed as injection wells after the State Underground Injection Control Program is promulgated, so the injection pressure being used can be monitored by an authorized representative(s) of the state geologist. For wells that were injecting prior to promulgation of the State Underground Injection Control Program, the female fitting need not be added until the well is tested for mechanical integrity.]

(5) Multiple-completed wells. Operators may produce from more than one (1) pool through the same wellbore if separation of each pool is maintained and after application to, and approval by, the state geologist. Multiple-completed injection and production wells may be permitted if, in addition to the requirements above, all of the following conditions are met:

(A) Any offsetting production will not be adversely affected;

(B) Underground sources of drinking water will not be endangered;

(C) The well is continuously cemented across the injection and producing intervals; and

(D) The well demonstrates mechanical integrity.

(6) The state geologist may require specific casing and cementing requirements for injection wells based on the following:

(A) The depth of the underground source(s) of drinking water;

(B) The nature of the injected fluids; or

(C) The hydraulic relationship between the injection zone and the underground source(s) of drinking water.

(7) The following requirements shall apply to permitted injection wells:

(A) Each operator shall equip the wellhead with a pressure observation valve and maintain equipment necessary to obtain injection pressure measurements upon inspection by an authorized representative(s) of the state geologist. For injection wells completed prior to March 30, 2016, the pressure observation valve shall be added prior to testing for mechanical integrity, or upon request of the state geologist;

(B) The following tubing and packer requirements shall apply to permitted injection wells:

1. Each well permitted shall meet one (1) of the following requirements:

A. The well shall be equipped to inject through tubing below a packer;

B. A packer run on the tubing shall be set in casing opposite a cemented interval at a point immediately above the uppermost perforation or openhole interval. The annulus between the tubing and the casing shall be filled with a corrosion-inhibiting fluid or hydrocarbon liquid; and

C. A packerless or tubingless completion for injection wells drilled to no greater than one thousand five hundred feet (1500') is authorized under the provisions of paragraph (7)(B)2. or 3. of this regulation;

2. Injection through tubing without a packer is authorized if all of the following requirements are met:

A. The tubing shall be run to a depth not shallower than forty feet (40') above the uppermost perforation or open hole of the injection interval;

B. Each wellhead shall be equipped with a pressure observation valve on the tubing and the tubing-casing annulus; and

C. The operator of the tubingless completion shall maintain the well so that the mechanical integrity tests can be performed as specified in 10 CSR 50-2.055(12); and

3. Injection without tubing is authorized if all of the following requirements are continuously met during the life of the well:

A. The casing shall be cemented continuously from setting depth to surface;

B. Surface wellhead injection pressure shall be recorded monthly and kept by the operator for five (5) years;

C. All pressure readings recorded shall be taken during actual injection operations; and

D. The operator of the tubingless completion shall maintain the well so that the mechanical integrity tests can be performed as specified in 10 CSR 50-2.055(12).

(8) In existing wells to be converted to other use, including but not limited to injection, all additional casing or recompletion shall be constructed as specified in sections (1) through (7).

(9) Documentation. Legible documentation of the cementing operations across all strata shall be maintained by the operator and provided to the state geologist upon request. The documentation may consist of invoices, job logs, job descriptions, or other similar service company reports.

(10) All points at which a well is in physical contact with a pool shall meet all minimum distance requirements as specified in 10 CSR 50. For horizontal wells, a directional survey must be submitted with a well completion or recompletion report to verify points at which the well is in contact with the pool.

(11) Any well not constructed in compliance with requirements of this regulation shall be shut in, according to 10 CSR 50-2.060 until compliance is achieved.

(12) All stratigraphic test wells that are not converted to another type of well must be permanently plugged according to 10 CSR 50-2.060(3) within ninety (90) calendar days of the spud date. A single thirty (30) calendar day extension period may be granted upon written request to the state geologist. If conversion is to take place, permit modification must be submitted to the state geologist as detailed in 10 CSR 50-2.030(9) or 10 CSR 50-2.060(4) prior to conversion. The well will then be subject to all completion and location requirements for the type of well to which it is being converted.

(13) Permanent signage must be posted within ninety (90) calendar days of spud date at each well site indicating the well name, well number, and API number. Stratigraphic test wells and noncommercial gas wells are exempt from signage posting.

*AUTHORITY: section[s 259.060 and] 259.070, RSMo [2000] **RSMo Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 16, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities twenty-two thousand three hundred sixty dollars ($22,360) initially and two thousand four hundred twenty dollars ($2,420) per year in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50 - 2.040, Oil and Gas Drilling and Production - Drilling and Completion
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classification by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
20	Oil or gas operators who drill, maintain, operate, or control wells associated with oil or gas production, storage, or injection projects.	$22,360 to add signage to existing wells & $2,420 per year to add signage to future wells

III. WORKSHEET

1. An estimated 1,118 existing wells will require permanent identification signs as required in proposed 10 CSR 50-2.040(13). Assumed cost is an average of $20 per sign. $20/sign x 1,118 signs = $22,360

2. An average of 121 new wells drilled each year will require permanent identification signs. $20/sign x 121signs/year = $2,420/year

IV. ASSUMPTIONS

1. Based on statistics from the past 5 years, we are assuming an average of 20 commercial oil and gas operators per year.

2. Based on industry feedback, we are assuming an average of $20 per permanent identification sign.

3. Based on statistics from the past 5 years, we are assuming an average of 121 new wells will require permanent identification signs per year.
4. Non-commercial gas wells and stratigraphic test wells are exempt from the permanent identification signage requirement.

5. This cost assumes that an average of the past 5 years' statistics is representative of the highly volatile nature of oil and gas production and exploration activity in the state.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.050 Samples, Logs, and Completion Reports. The council is amending the purpose, sections (1)–(3), and deleting section (4).

PURPOSE: This amendment changes the timeframes for sample retention and report submittal to be based on the spud date rather than the completion date, changes the sampling interval for cuttings from ten feet to five feet, changes the sampling responsibility to be that of the operator rather than the owner, specifies identification information necessary for each sample, and provides the ability to request extensions.

*PURPOSE: The objective of exploration is to locate reserves of oil and gas. To [obtain] **achieve** this objective, the geologic history and the relationships of petroleum generation, migration, and accumulation must be understood. Analyses of well cuttings and cores provide much information on the composition, age, and original environment of deposition of the sediments and on fluid content and characteristics. Logging tools lowered into boreholes [furnish] **provide** information concerning the electrical, acoustical, and radioactive properties of rock-fluid systems throughout drilled intervals. This rule provides for filing of these data with the [Oil and Gas Council] **state geologist** for the future use of industry and government scientists and is of paramount importance in achieving new energy resources and for protection of the environment.*

(1) Each operator drilling or recompleting wells for the purpose of the exploration or production of oil or gas, excluding seismic shot holes, shall preserve and retain samples or drill cuttings, cores, and all other information as required under sections (2) and (3).

(2) Samples.

(A) The operator shall be given notice that samples or cores are required by a notice appended to or on a copy of the permit to drill, deepen, plug-back, or recomplete returned to the operator by the state geologist. All samples or drill cuttings saved in drilling or recompletion operations, and any cores taken, shall be retained by the operator for one hundred eighty (180) days after the spud date of the well.

*[(1)]***(B)** Sample cuttings shall be taken at *[ten]* **five** foot (*[10]***5**') intervals from the surface to total depth in all wells drilled *[for oil or gas, for geological information, for the storage of dry natural gas, or casinghead gas and for the development of reservoirs for the storage of liquid petroleum gas. Each sample shall be carefully identified as to well name and depth of sample and all samples shall be shipped at the owner's expense to the office of the state geologist. Samples shall be remitted to the state geologist at weekly intervals and shall be for his/her study and use and shall be considered confidential for a period of one (1) year when so requested by the owner in writing.]* **under these regulations.**

*[(2)]***(C)** During the drilling**,** *[of,]* or immediately following the completion**,** of*[,]* any well drilled as provided in *[section 10 CSR 50-2.050(1) of]* this rule**,** the *[owner]* **operator** shall advise the state geologist of all intervals that are to be cored, or have been cored, *[and the cores as are taken shall be preserved,]* and**,** if requested**,** shall *[be]* forward*[ed]* **the core** to the state geologist at the *[owner's]* **operator's** expense. In the event that it is necessary for the *[owner]* **operator** to utilize all or any portion of the core to the extent that sufficiently large and representative samples are not available for the state, the *[owner]* **operator** shall *[furnish]* **provide** the state geologist with the results of identification or testing procedures. *[The data shall be considered confidential for a period of one (1) year when so requested by the owner in writing.]*

(D) Each sample shall be identified as to well name, location, and depth of sample. Upon request of the state geologist, all cores or core longitudinal sections not required by the operator for well evaluation purposes shall be placed in stratigraphic sequence in adequate boxes, labeled with the well name, location, and footage, and delivered to the state geologist. All samples shall be shipped at the operator's expense to the office of the state geologist and shall be for study and use.

(E) Delivery of the processed samples or cores shall be made within one hundred twenty (120) days of the spud date or date of commencement of recompletion of the well.

(F) If retention of the core is requested by the operator, designated state geologist staff members shall be provided unrestricted access to the core at the operator's facility during the operator's normal business hours. This access shall be subject to any confidentiality requests made under 10 CSR 50-1.020.

(G) Operators in physical possession of cores requested by the state geologist shall not dispose of the cores without permission of the state geologist.

(H) If the state geologist requests samples from portions of the hole that typically are not saved in drilling operations, the operator shall provide these samples.

(I) The state geologist may waive the requirements of sampling if the state geologist determines additional geologic information is not required. The state geologist will advise the operator on the returned copy of the approved permit to drill, deepen, plug-back, or recomplete when samples will not be required.

(3) Well completion or recompletion report.

*[(3)]***(A)** Within *[thirty (30)]* **one hundred twenty (120) calendar** days *[of]* **after** the *[completion]* **spud date or commencement of recompletion** of a well drilled *[for oil or gas, for geologic information, for gas storage, for the development of reservoirs for storage of liquid petroleum gas or for any injection purposes]* **under these regulations,** the *[owner will file with the state geologist properly executed form OGC-5]* **operator shall submit a well completion or recompletion report**. *[As an integral part of form OGC-5, the owner shall include complete logs or records of the well, including drilling time logs, electric logs, radioactive logs or other logs that may have been obtained during mechanical integrity testing. When more than one (1) type has been made, all shall be required. The data shall be filed with the state geologist for his/her study and use and shall be considered confidential for a period of one (1) year when so requested by the owner in writing.]* **Stratigraphic test wells that have not been converted are exempt from this requirement.**

(B) For good cause shown, an extension of sixty (60) days may be granted by the state geologist. The request for extension shall be submitted in writing and received before the expiration of the one hundred twenty- (120-) day period.

(C) If requested by the state geologist, the operator shall include with the report complete logs or records of the well, including, but not limited to, drilling time logs, electric logs, radioactive logs or other logs that may have been obtained during mechanical integrity testing.

[(4) The state geologist may waive the requirements of sampling as set forth in section (1) of this rule when a well(s) is/are drilled in an established field. The state geologist will advise the owners on the returned copy of the drilling application when samples will not be required.]

*AUTHORITY: section 259.070, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed*

Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Oct. 14, 1981, effective Feb. 11, 1982. Amended: Filed Sept. 15, 2015.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED RULE

10 CSR 50-2.055 Injection Wells, Mechanical Integrity Testing, and Well Stimulation Treatment

PURPOSE: This rule provides for information needed for the permitting of injection activities and establishes procedures to be followed by the state geologist in issuing or denying permits. It also establishes procedures for determining injection pressures, demonstrating mechanical integrity, and taking corrective action at deficient wells. The rule further provides for notification of well stimulation treatment projects and submittal of documentation related to such treatment.

(1) Prior to commencement of injection operations, the following conditions shall be met:

(A) Application for a permit to inject along with the fee required pursuant to 10 CSR 50-1.050 has been submitted to the state geologist on forms provided by the department;

(B) The required operator license, bond, and approved completion or recompletion report are on file in the office of the state geologist; and

(C) The state geologist has approved and issued a permit to inject granting the application.

(2) Each injection well found to be operating without a permit issued by the state geologist shall be shut in, according to 10 CSR 50-2.060 until compliance is achieved.

(3) Each application for permit to inject shall be submitted on a form provided by the department, along with the fee required pursuant to 10 CSR 50-1.050, shall be completed in full, and be accompanied by—

(A) A map that shows the area of review for the proposed injection well and all area of review wells of public record, within a one-half- (½-) mile radius of the injection well, that penetrate the injection interval. Descriptions of all wells that penetrate the injection interval in the area of review shall be included on a form provided by the department. Each well in the area of review shall be uniquely marked or numbered;

(B) An electric log run to the surface or a log showing lithology or porosity of geologic strata encountered in the injection well, including an elevation reference. If such a log is unavailable, an electric log to surface or a log showing lithology or porosity of geological strata encountered in wells located within a one- (1-) mile radius of the subject well;

(C) A description of the fluid to be injected, the source of injected fluid, and compatibility of injected fluid with that of the receiving stratum, including total dissolved solid comparisons;

(D) An affidavit that notice has been provided in accordance with 10 CSR 50-2.055(4); and

(E) Information showing that injection into the proposed injection zone will be contained within the injection zone and will not initiate fractures through the overlying or underlying strata that could enable the fluid or formation fluid to enter underground sources of drinking water. This information may include the name, description, and depth of overlying and underlying confining strata for the injection zone. Fracture gradients shall be computed and provided to the state geologist by the applicant.

(4) Notice. The injection permit applicant shall provide notice utilizing the following procedure:

(A) The applicant shall notify each of the following parties whose acreage lies partially or fully within a one-half- (½-) mile radius of the project boundaries, by mailing or delivering a copy of the application and notice of intent on or before the date of publication described in subsection (4)(B):

1. Each operator or lessee of record;

2. Each owner of record of the mineral rights of unleased acreage; and

3. Each landowner within the project boundaries;

(B) The applicant shall publish at least one (1) notice of intent to operate an injection well in a newspaper of general circulation in the county in which the proposed injection well(s) is located. The notice shall include the following:

1. Name and address of applicant;

2. Location of well(s);

3. Geologic name of proposed injection strata and approximate depth of injection zone;

4. Proposed maximum injection rate and pressure;

5. Description of the need for the injection well(s);

6. Approximate maximum number of injection wells that ultimately will be utilized in the project; and

7. Address of the office of the state geologist, where comments may be sent or additional information may be obtained;

(C) The applicant shall provide an affidavit of notice to include a copy of the newspaper publication and a list of parties notified according to subsection (4)(A); and

(D) A fifteen (15) calendar day written comment period shall begin on the date of publication. A record shall be kept by the state geologist of all written comments received and the responses to these comments. If within this comment period the state geologist determines that a significant degree of public interest is expressed, or other factors indicate the need for a public hearing, the state geologist may order a hearing. Public notice of the hearing will be provided in a newspaper of general circulation in the county where the proposed injection well is located with a hearing date set for no sooner than thirty (30) calendar days after the date of notice. If no public hearing is ordered, the state geologist will process the application after the end of the fifteen (15) calendar day comment period and upon receipt of an affidavit of newspaper publication.

(5) Modifications.

(A) Modifications to the type or construction of the injection well including, but not limited to, an increase in injection rate or pressure or an additional perforation or injection zone, neither of which is expressly authorized by the existing permit, shall require an application for a permit to inject to be filed along with the fee required pursuant to 10 CSR 50-1.050, except as specified in subsection (5)(B) below.

(B) An operator shall not be required to file an application to modify any injection well permit but shall file with the state geologist a

notice of permit modification on a form provided by the department when the operator seeks to add or delete additional sources of the fluid disposed into the well but will not exceed the maximum authorized injection rate and pressure.

(C) Each application for any modifications to the injection permit, including increasing pressure or rate and changing or adding injection strata, shall require the notice specified in section (4) of this regulation.

(6) Upon application for a permit to inject, the state geologist shall review the application and, within fifteen (15) business days, determine if the application is in proper form and if the requirements of Chapter 259, RSMo, and implementing regulations are met. If the application is incomplete or lacking required information, forms, or fees, the state geologist shall notify the operator and suspend the application process. When the required form, information, or fee is submitted by the operator and received by the state geologist, the fifteen (15) business day permit period will begin anew. If the state geologist has not received the missing or incomplete required application information or fee within thirty (30) days after notification of the operator, the application shall be considered null and void and the operator must reapply by submitting a new application for a permit to inject, along with the required fee.

(A) If the state geologist finds that the application is in good form, that all requirements of the application have been met, and that Chapter 259, RSMo, and implementing regulations are being met, the state geologist shall issue the permit.

(B) If the state geologist determines either that the application is not in proper form, that the operator failed to submit the applicable fees, or that Chapter 259, RSMo, and implementing regulations are not being met, the state geologist shall deny the permit.

(C) If the state geologist finds that injection at the proposed site would be an undue risk to the surface or subsurface environment, the state geologist shall deny the permit.

(D) If the state geologist determines that the operator is in violation of any provision of Chapter 259, RSMo, or implementing regulations, the state geologist may deny the permit.

(7) The state geologist may grant emergency authority to inject or dispose of fluids at an alternate location, if a facility is shut in for maintenance, testing, repairs, or by order of the state geologist or the council.

(8) A permit to inject shall not be transferred from one operator to another operator without approval of the state geologist. The operator (transferor) may submit to the state geologist a request to transfer any permit to inject to a new operator (transferee). The request shall be submitted on a form provided by the department no less than thirty (30) calendar days prior to the planned transfer. Any such request may be denied if the state geologist determines that the operator has not submitted all the required information. The transfer of a permit to inject shall follow the transfer procedures prescribed in 10 CSR 50-2.010(6)(A) through (C).

(9) For all injection well applications that require wellhead pressure to inject fluids, the operator shall inject the fluids through tubing under a packer set immediately above the uppermost perforation or openhole zone, except as specified in 10 CSR 50-2.040(7).

(10) Injection pressures. A maximum injection pressure for injection wells shall be established by the state geologist so that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the confining strata. The injection pressure also should not cause the injected fluid to migrate into an underground source of drinking water.

(A) The injection pressure determinations should be based on one (1) of the following methods:

1. For injection of liquids, the state geologist shall approve injection pressures at 0.75 psig/foot based upon the depth to the midpoint of the perforations in the injection zone; or

2. For injection of steam or other gases, the state geologist shall approve injection pressures at 3.0 psig/foot based upon the depth to the midpoint of the perforations in the injection zone; or

3. The operator may submit pump pressure data that details the ability of the injection zone to tolerate the requested pressure; or

4. The operator may submit step-rate test data that details the ability of the injection zone to tolerate the requested pressure; or

5. The operator may submit historical injection pressures and/or other data deemed appropriate by the state geologist to demonstrate an appropriate injection pressure for approval by the state geologist.

(B) At least one (1) test must be performed within one thousand three hundred twenty feet (1320') of the proposed injection well, or as otherwise deemed appropriate by the state geologist. The data must be submitted in the format required by state geologist.

(C) Following approval by the state geologist of an initial maximum injection pressure, the well used to obtain the data in paragraph (10)(A)3. or 4. above may be used as a reference well. Additional injection wells within one thousand three hundred twenty feet (1320') of the reference well may be approved at the same maximum injection pressure.

(D) The established maximum injection pressure shall not be exceeded. Exceedance of the maximum injection pressure may result in additional compliance monitoring as required by the state geologist. Modifications to increase a maximum injection pressure for injection wells shall be made according to section (5) above.

(11) Following receipt of an approved permit to inject, the operator shall notify the state geologist regarding injection operations as follows:

(A) Immediately upon the commencement of injection operations, the applicant shall notify the state geologist of the date of commencement; and

(B) After permanent discontinuance of injection operations, the operator shall follow the provisions of 10 CSR 50-2.060 and shall notify the state geologist, within ninety (90) calendar days, of the date of the discontinuance and the reasons for discontinuance.

(12) Mechanical integrity. All new or newly converted injection wells shall be required to demonstrate mechanical integrity and meet the requirements of 10 CSR 50-2.090 and 10 CSR 50-2.100 before operation may begin. All injection wells not permanently plugged must demonstrate mechanical integrity at least once every five (5) years.

(A) Demonstration of mechanical integrity shall utilize at least one (1) of the following procedures:

1. Pressure test. The annulus above the packer, or the injection casing in wells not equipped with a packer, shall be pressure tested. The date for this test shall be mutually agreed upon by the operator's representative and a representative of the state geologist, with a minimum of five (5) business days' notice prior to the test. Test results shall be verified by the operator's representative. The test shall be conducted in the following manner:

A. For newly completed or newly converted wells, the casing may be tested before perforating. A fluid pressure of one hundred ten percent (110%) of the approved pressure shall be applied, but shall be no less than 300 psig. A well demonstrates mechanical integrity if, when pressurized, it does not lose more than ten percent (10%) of the tested pressure over a period of thirty (30) minutes;

B. Wells constructed with tubing and a packer shall be pressure tested with the packer in place. A fluid pressure of one hundred ten percent (110%) of the approved pressure shall be applied, but shall be no less than three hundred (300) psig. A well demonstrates mechanical integrity if, when pressurized, it does not lose more than ten percent (10%) of the tested pressure over a period of thirty (30) minutes;

C. For wells constructed with tubing and no packer, a retrievable plug or packer shall be set immediately above the uppermost

perforation or openhole zone. A fluid pressure of one hundred ten percent (110%) of the approved pressure shall be applied, but shall be no less than three hundred (300) psig. A well demonstrates mechanical integrity if, when pressurized, it does not lose more than ten percent (10%) of the tested pressure over a period of thirty (30) minutes; and

D. For wells constructed with tubing and no packer, a method of pressure testing known as fluid depression may be conducted with prior approval and under guidelines established by the state geologist. The fluid in the well shall be depressed with gas pressure to a point in the wellbore immediately above the perforations or openhole interval. The minimum calculated pressure required to depress the fluid in the wellbore shall be no less than fifty (50) psig. A well demonstrates mechanical integrity if, when pressurized, it does not lose more than ten percent (10%) of the tested pressure over a period of thirty (30) minutes;

2. Alternative tests. Alternative test methods approved by the state geologist including, but not limited to, temperature surveys, tracer surveys, or noise logs, may be used to demonstrate mechanical integrity if conditions are appropriate. The date for this test shall be mutually agreed upon by the operator's representative and a representative of the state geologist, with notice provided a minimum of five (5) business days prior to the test. Test results shall be verified by the operator's representative and shall be interpreted as specified in state geologist-approved procedures;

(B) Monitoring. Following an initial test in accordance with subsection (12)(A) above, once a month, the operator shall monitor and record, during actual injection, the pressure or fluid level in the annulus and any other information deemed necessary by the state geologist. An annual report of information logged shall be submitted to the state geologist in accordance with 10 CSR 50-2.080.

(C) The operator shall notify the office of the state geologist at least five (5) business days prior to commencing a mechanical integrity test. Results of this test must be reported on the appropriate form to the state geologist within thirty (30) calendar days of completion of the test. The state geologist shall inform the operator of a satisfactory or unsatisfactory demonstration of mechanical integrity within fifteen (15) business days.

(13) If a well cannot demonstrate mechanical integrity, or if other conditions develop that threaten or could threaten the quality of surface or groundwater, the operator shall cease operation of the well, shall notify the state geologist within twenty-four (24) hours with details as to the nature of the problem, and shall propose a corrective action plan in writing within five (5) business days. The operator shall have no more than sixty (60) calendar days from the date of initial failure in which to perform one (1) of the following:

(A) Repair and retest the well to demonstrate mechanical integrity; or

(B) Plug the well.

(14) Following corrective action required by section (13), the state geologist may require additional testing or monitoring. If the state geologist has approved the use of any chemical sealant or other mechanical device to isolate the leak before use, then the following requirements apply:

(A) Injection pressure into the well shall not exceed the maximum mechanical integrity test pressure; and

(B) The well shall demonstrate mechanical integrity on an annual basis for the duration the well is completed in this manner.

(15) The state geologist or an authorized representative shall have the authority to sample injected fluids at any time during injection operations.

(16) Well stimulation treatment projects. At least five (5) business days prior to commencement of a well stimulation treatment project, the operator is required to notify the state geologist in writing the nature of the project. Within thirty (30) calendar days after completion of a well stimulation treatment project, the operator shall submit copies of the well stimulation treatment tickets from the company performing such treatment, including documentation of the materials injected.

(17) All injection wells in operation prior to March 30, 2016, shall comply with these injection permitting requirements no later than April 1, 2017. All wells permitted on or after March 30, 2016, shall comply with requirements in this rule prior to permit issuance.

AUTHORITY: sections 259.060, 259.080, and 259.140, RSMo 2000, and section 259.070, RSMo Supp. 2013. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-2.055 Injection Wells, Mechanical Integrity Testing and Well Stimulation Treatment
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$ 176,666	$ 181,966	$ 187,425	$ 193,048
		Average Need (FY18-FY21)			***$ 184,776***

$184,776 ÷ 7 – $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
     Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.060 ***Shut-in Wells,*** **Plugging, and** *[Abandonment]* ***Conversion to Water Well***. The council is amending the title, purpose, deleting sections (1)–(10), and adding new sections (1)–(4).

PURPOSE: This amendment incorporates requirements for shut-in wells including timeframes for returning the well to operation, plugging the well, or requesting an extension. This amendment also clarifies requirements and procedures for plugging abandoned wells, clarifies actions the state geologist may take to cause the plugging of an abandoned well, specifies plugging requirements for horizontal wells, stratigraphic test wells, and seismic shot holes, references required fees to be submitted, and clarifies the procedures for converting a well to a domestic water supply well.

PURPOSE: This rule provides for the protection of both surface water and groundwater. Drilling muds, oil, and water recovered from drilling or testing operations must be disposed of so that pollution of surface soil, ponds, and streams is avoided. [Fresh] ***Underground sources of drinking*** *water strata are protected by casing set below the deepest [zone]* ***strata penetrated*** *that might contain [fresh]* ***underground sources of drinking*** *water. Dry holes must be plugged [and abandoned] in a manner that subsurface salt water or mineralized water will be confined to the stratum in which it occurs. Similarly, each oil or gas stratum penetrated by a well must be permanently sealed when abandoned to prevent contamination of [fresh]* ***underground sources of drinking*** *water [supplies] and also to prevent damage by water of any oil or gas stratum capable of producing in paying quantities. In certain logging procedures, a radioactive source (in a probe or sonde) is lowered into the borehole to provide certain subsurface data useful in exploration for oil and gas. Should this radioactive source contained in a logging tool be lost* ***in the hole****, certain procedures are prescribed to prevent the accidental or intentional mechanical disintegration of the radioactive source. Further, there are provisions for marking the well site permanently as a warning that a radioactive source has been abandoned in the well.*

[(1) Before beginning abandonment work on any well whether it is a drilling well, or a well drilled for oil or gas, for geologic information, or for gas storage, or for any other purpose, notice of intention to abandon the well shall be filed with the state geologist on approved form OGC-6. The notice shall include the details of the proposed abandonment procedure and whether any logging tool containing a radioactive source is being abandoned (see section (8) of this rule for radioactive source abandonment procedure). If necessary to avoid rig downtime, oral permission to abandon dry holes may be obtained by informing the state geologist of proposed abandonment procedures.

(2) In lieu of prior notice and approval by the state geologist (form OGC-6) the operator may elect to plug the hole from total depth to within plow depth of the surface with cement slurry, being no less than sixteen (16) pounds per gallon density. In such event, form OGC-7 shall be forwarded to the state geologist within forty-eight (48) hours after completion.

(3) Before any well is abandoned, it shall be plugged in a manner which will confine permanently all oil, gas and water in the separate strata originally containing them. The plugging operation shall be accomplished by the proper use of mud-laden fluid, cement and plugs, used singly or in combination as may be approved by the state geologist.

(4) Drill holes in formations which contain oil or gas or from which oil or gas have been produced, or that have been used for injection, shall be plugged by placing cement from the base of the formation to a point no less than twenty-five feet (25') above the top of the formation.

(5) Appropriate means shall be taken to eliminate movement of surface water into a plugged well and to prevent pollution of subsurface strata.

(6) Casing shall be cut off below plow depth except as may be approved by the state geologist to allow for the conversion of a well to a water supply well for use by a landowner. A well conversion agreement (form OGC-8) is available for use by the operator and land-owner in these instances.

(7) Within thirty (30) days after the completion of abandonment, the prescribed plugging record, form OGC-7, shall be executed and submitted to the state geologist.

(8) Before a radioactive source may be abandoned, the person, firm or corporation proposing the abandonment shall notify the state geologist. Wells in which radioactive sources are being abandoned should be mechanically equipped so as to prevent the accidental or intentional mechanical disintegration of the radioactive source.

(A) Sources being abandoned in a well should be covered with no less than a fifty feet (50') standard-color-dyed cement plug on top of which a whipstock should be set. The dye is to alert the re-entry operator prior to encountering the source.

(B) In wells where a logging source has been cemented in place behind a casing string and above total depth, upon abandonment a standard-color-dyed cement plug should be placed opposite the abandoned source and to extend fifty feet (50') above and fifty feet (50') below with a whipstock placed on top of the plug.

(C) In the event the operator finds that after expending a reasonable effort, because of hole conditions, it is not possible to abandon the source as prescribed in subsections (8)(A) or (B) of this rule, s/he shall seek the state geologist's approval to cease efforts in this direction and obtain approval for an alternate abandonment procedure.

(9) Upon permanent abandonment of any well in which a radioactive source is left in the hole, and after removal of the wellhead, a permanent plaque is to be attached to the top of the casing left in the hole in a manner that re-entry cannot be accomplished without disturbing the plaque. This plaque would serve as a visual warning to any person re-entering the hole that a radioactive source has been abandoned in place in the well. The plaque should contain the trefoil radiation symbol with a radioactive warning and should be constructed of a long-lasting material such as monel, stainless steel or brass.

(10) Monies deposited in the Oil and Gas Remedial Fund may be used by the council to plug those oil, gas and injection wells that have been abandoned and have not been plugged according to the council's rules, subject to the following guidelines:

(A) Wells covered by a forfeited bond shall receive first priority; and

(B) Other wells shall receive secondary priority on the basis of their potential for groundwater contamination or other

damage in the order recommended to the council by the state geologist.]

(1) Shut-in wells.

(A) Shut-in status. A well shall be considered shut in whenever it has not been operated for ninety (90) calendar days or more. The shut-in status shall not exceed ninety (90) calendar days. Prior to the expiration of the ninety (90) calendar days shut-in status, the operator of that well shall perform one (1) of the following:

1. Return the well to operation and notify the state geologist on the monthly well status report per 10 CSR 50-2.080(2); or

2. Plug the well; or

3. Petition the state geologist for an extension and propose an end date for the shut-in status.

(B) Approval of shut-in status extensions.

1. No well shall have its shut-in status extended as described in subsection (1)(A) unless first approved by the state geologist. Extension to the shut-in status shall not exceed one (1) year. If the operation of any shut-in well is not resumed within one (1) year after the extension has been approved, the well shall be deemed an abandoned well, and the operator shall plug the well per these rules. Upon application to the state geologist before the expiration of the one (1) year period, and for good cause shown, the period may be extended by the state geologist for one (1) year upon compliance with the provisions of paragraph (1)(B)2. of this section. Additional one- (1-) year extensions may be granted by the state geologist. The total time of such consecutive extensions shall not exceed ten (10) years.

2. Any well in continuous shut-in status must demonstrate mechanical integrity at least once every five (5) years pursuant to procedures in 10 CSR 50-2.055.

(C) Right of denial. Any shut-in well shall be subject to inspection by the state geologist to determine whether its shut-in status could cause contamination of underground sources of drinking water. If necessary, extensions of shut-in status for a well may be denied by the state geologist, and the well may be required to be plugged, repaired, or demonstrate mechanical integrity according to the direction of the state geologist and in accordance with these regulations.

(D) Plugging of shut-in wells. If the well is not returned to service or properly plugged pursuant to these rules before the end of the shut-in status, the well will be considered abandoned and shall be plugged within thirty (30) calendar days. After the thirty- (30-) day period, if the well has not been plugged pursuant to these rules, the bond in place for the well shall be forfeited and deposited into the Oil and Gas Remedial Fund according to 10 CSR 50-2.020(6) and utilized according to 10 CSR 50-2.060(3)(F).

(2) Shut-off test. Whenever it appears to the state geologist that any water from any well is migrating or infiltrating into oil-bearing or gas-bearing strata or that any detrimental substances are infiltrating any underground sources of drinking water, the state geologist may require a shut-off test, to be conducted at the expense of the operator of that well. The time and procedure for the taking of the test shall be fixed by the state geologist. Reasonable notice of the test shall be given to the owner or operator. The owner or operator of any abandoned oil or gas well from which water is migrating or infiltrating into any oil-bearing or gas-bearing strata, or from which any detrimental substances are infiltrating any underground sources of drinking water, shall immediately plug or repair the well in accordance with section (3) below and shall prevent the infiltration of oil, gas, produced water, or other detrimental substances into underground sources of drinking water strata.

(3) Plugging Requirements.

(A) Abandoned Wells.

1. An abandoned well shall be plugged or addressed as directed by the state geologist as provided in these rules. Plugging an abandoned well shall include the removal of any rig, derrick, or other operating structure, and all abutments and appurtenances used in the operation of such well, from the land upon which the well was operated, and shall include grading the surface of the soil in such manner as to leave the land, as nearly as practicable, in the same condition after the removal of such structures, equipment, and appurtenances as it was before such structures and abutments were placed thereon, unless the owner of the land and the plugging party have entered into an agreement providing otherwise.

2. When the state geologist investigates and determines that a well has been abandoned, as provided in these rules, the state geologist may issue an order directing the operator, owner, or any person who without authorization tampers with or removes surface equipment or downhole equipment from the abandoned well to plug the well as directed by the state geologist. If the person to whom the order is issued fails to comply with any such order that has become final under 10 CSR 50-1.040, the person to whom the order is issued shall be deemed to have abandoned any and all property interests in the well and any rig, derrick, or other operating structure, and all abutments and appurtenances.

3. In addition to any other remedy provided in Chapter 259, RSMo, or implementing regulations, if the state geologist determines that a well has been abandoned, the department or the council may request that the attorney general institute a civil proceeding to request appropriate injunctive relief, civil penalties, or other appropriate remedy, as provided in sections 259.200 and 259.210, RSMo.

4. If the state geologist determines that a well has been abandoned, the department in accordance with section 259.070.5(7), RSMo, may plug such well, or cause it to be plugged as to prevent contamination or danger of contamination of any waters of the state or loss of underground sources of drinking water, and may remediate contamination from the well. Plugging or remediation may include the collection, removal, salvage, and disposition of abandoned operating structures or other equipment. The cost of the plugging or remediation shall be paid by the Oil and Gas Remedial Fund, as provided in section 259.190, RSMo.

(B) Notice.

1. Before plugging any well the operator shall file with the state geologist a notice of intent to plug on a form provided by the department. The notice shall include the details of the proposed plugging procedure and description of any logging tool containing a radioactive source being abandoned (see subsection (E) of this section for radioactive source abandonment procedure). The proposed plugging procedure shall be approved by the state geologist prior to commencement of plugging activities.

2. The operator shall notify the state geologist no later than five (5) business days before the plugging.

3. Exceptions.

A. If necessary to avoid rig downtime, oral permission to plug dry holes may be obtained by informing the state geologist of proposed plugging procedures, in which case a notice of intent to plug form must be submitted within three (3) business days of plugging.

B. In lieu of prior notice and approval by the state geologist as detailed in paragraph (3)(B)1. of this rule, the operator may elect to plug a well from total depth to the surface with cement slurry, being no less than fifteen (15) pounds per gallon density.

C. If an emergency situation exists, the operator shall orally notify and present the plugging proposal to the state geologist for approval.

(C) Plugging methods.

1. Before any well is considered plugged, all oil, gas, and water shall be permanently confined in the separate strata originally containing them.

2. Wells shall be plugged by emplacing cement from twenty-five feet (25') below the bottom of the stratum to a point no less than twenty-five feet (25') above the top of the stratum that contains oil or gas, or from which oil or gas has been produced, or that has been used for injection.

3. Casing in plugged wells, including horizontal wells, shall be cut off at least three feet (3') below ground surface at the wellhead.

4. Horizontal wells. Each horizontal well shall be filled with a cement plug from total depth of the deepest producing horizon to the surface.

5. Stratigraphic test wells. Each stratigraphic test well shall be filled with a cement plug from total depth to within three feet (3') of the surface. All stratigraphic test wells shall be plugged after being used as soon as is reasonably practicable. However, such wells shall not remain unplugged for a period of more than thirty (30) calendar days after the drilling of the well.

6. Seismic shot holes. All seismic shot holes shall be plugged upon completion of the shooting. Such holes shall not remain unplugged for a period of more than thirty (30) calendar days after the drilling of the hole.

7. If circulation is lost in the drilling of any hole and circulation cannot be regained, a cement plug shall be placed above the zone of lost circulation to the surface.

8. Alternative plugging methods may be authorized by the state geologist when geologic conditions or conditions in the casing or wellbore warrant.

(D) Reporting. The operator shall submit a plugging record along with the fee required pursuant to 10 CSR 50-1.050 to the state geologist within thirty (30) calendar days after completion of plugging activities. The report shall be made on the form provided by the department and shall be completed in full.

(E) Radioactive source.

1. If a radioactive source has been lost and cannot be retrieved from a hole, the person, firm, or corporation proposing the abandonment shall notify the state geologist. Wells in which radioactive sources are being abandoned shall be mechanically equipped so as to prevent the accidental or intentional mechanical disintegration of the radioactive source.

A. Sources being abandoned in a well shall be covered with no less than a fifty feet (50') standard-red-dyed cement plug on top of which a whipstock shall be set. The dye is to alert the re-entry operator prior to encountering the source.

B. In wells where a radioactive logging source has been cemented in place behind a casing string and above total depth, upon abandonment a standard-red-dyed cement plug should be placed opposite the abandoned source and extend fifty feet (50') above and fifty feet (50') below with a whipstock placed on top of the plug.

C. If the operator finds after expending a reasonable effort it is not possible to abandon the source as prescribed in subparagraph (3)(E)1.A. or B. of this rule, the operator shall seek the state geologist's approval to cease efforts in this direction and obtain approval for an alternate abandonment procedure.

2. Upon permanent plugging of any well in which a radioactive source is abandoned, and after removal of the wellhead, a permanent plaque is to be attached to the top of the casing left in the hole in a manner that re-entry cannot be accomplished without disturbing the plaque. This plaque would serve as a visual warning to any person re-entering the hole that a radioactive source has been abandoned in place in the well. The plaque should contain the trefoil radiation symbol with a radioactive warning and should be constructed of a long-lasting material such as monel, stainless steel, or brass.

(F) Monies deposited in the Oil and Gas Remedial Fund may be used by the department to plug those oil, gas, and injection wells that have been abandoned and have not been plugged according to these rules, subject to the following guidelines:

1. Wells covered by a forfeited bond shall receive first priority; and

2. Other wells shall receive secondary priority on the basis of their potential for groundwater contamination or other damage in the order recommended by the state geologist.

(4) Conversion to domestic water supply well. A well conversion agreement form must be submitted for conversion of a well under these regulations to a domestic water supply well and must be submitted within thirty (30) calendar days after conversion of the well. The well must have been reconstructed, or, for a stratigraphic test well, must have been constructed, as a water well by a Missouri permitted water well installation contractor and must meet minimum water well construction standards as set forth in the Water Well Drillers' Act, Chapter 256, RSMo, and the implementing Missouri Well Construction rules 10 CSR 23. A well registration or certification, as appropriate, per those rules shall be approved before the state geologist will approve the conversion agreement and release the applicable bond.

*AUTHORITY: section [259.060,] 259.190, RSMo [1986] **2000,** and **section** 259.070, **RSMo Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED RULE

10 CSR 50-2.065 Operations

PURPOSE: This rule provides for procedures or requirements for activities as part of oil and gas production operations. General operations include hydrocarbon storage, metering of produced gas, and spill response.

(1) Tank identification. All oil tanks, tank batteries, tanks used for produced water collection or disposal, and tanks used for oil-sediment treatment or storage shall be identified by a sign posted on, or not more than fifty feet (50') from, the tank or tank battery. The sign shall be of durable construction and shall be large enough to be legible under normal conditions at a distance of fifty feet (50'). The sign shall identify—

(A) Name, license number, and contact information of the operator;

(B) Name of the lease or unit being served by the tank;

(C) Location of the tank, including section, township, range, and county; and

(D) Contents of the tank.

(2) Gas to be metered. All gas, when produced or sold, shall be metered with a meter of sufficient capacity. Meters shall not be required for gas produced and used on site for development purposes, production unit operations, primary dwellings, or non-commercial gas wells.

(A) Each party who owns, maintains, or operates the metering device used to record gas sales from each well or production unit in a gas field shall, at a minimum, test and calibrate the metering device on an annual basis and retain the record of the testing and calibration for at least two (2) years. Each party shall also retain, for at least two (2) years, the original field record consisting of meter charts, electronic records, records of gas purchases, or other approved method. All information retained shall be made available to the state geologist upon request.

(B) By-passes shall not be connected around meters in a manner that will permit the improper taking of gas.

(3) Spill Notification. Each operator, immediately upon discovery or knowledge of any spill or release, shall take immediate action in accordance with the Spill Bill, section 260.500 to 260.550, RSMo, and the implementing regulations in 10 CSR 24. This does not alter responsible parties' obligations under any other applicable law.

AUTHORITY: section 259.060, RSMo 2000, and section 259.070, RSMo Supp. 2013. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities approximately six thousand dollars ($6,000) per year in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50 - 2.065, Oil and Gas Drilling and Production - Operations
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	**Classification by types of the business entities which would likely be affected:**	**Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:**
20	Oil or gas operators who drill, maintain, operate, or control wells associated with oil or gas production, storage, or injection projects.	$0 to add metering equipment to existing gas wells & less than $6,000 per year to add metering equipment to future wells; however, it is generally industry standard practice to add this metering equipment to gas wells, even without the regulatory requirement

III. WORKSHEET

1. All existing active commercial gas wells already have metering equipment attached, as required in proposed 10 CSR 50-2.065(2), even though current regulations do not require them.

2. An average of less than 1 well drilled each year will require a gas flow meter. Assumed cost per gas flow meter is an average of $6,000. $6,000/flowmeter x <1 flowmeter/year = <$6,000

IV. ASSUMPTIONS

1. Based on statistics from the past 5 years, we are assuming an average of 20 commercial gas operators per year.

2. Based on industry feedback, we are assuming an average of $6,000 per well gas flow meter.

3. Based on statistics from the past 5 years, we are assuming and average of less than 1 new well per year will require a gas flow meter.

4. Gas flow meters shall not be required for gas produced and used on site for development purposes, production unit operations, primary dwellings or non-commercial gas wells.

5. This cost assumes that an average of the past 5 years' statistics is representative of the highly volatile nature of oil and gas production and exploration activity in the state.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED RESCISSION

10 CSR 50-2.070 Well Spacing. This rule provided requirements for, and limitations on, the spacing of wells and for certain exceptions and exemptions thereto.

PURPOSE: This rule is being rescinded as the substantive requirements for well spacing are being consolidated into 10 CSR 50-3 for ease of use and compliance.

AUTHORITY: sections 259.060, 259.070 and 259.100, RSMo 1986. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the ***Code of State Regulations****. Rescinded: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.080 *[Monthly Reports]* ***Record Retention and Reporting***. The council is amending the title, purpose, sections (1)–(2) and (7), deleting sections (3)–(6), and adding new section (3).

PURPOSE: This amendment adds a requirement for operators to retain fluid injection records for five (5) years, changes the monthly report submittal timeframes to allow additional time for submittal, requires monthly volume reports for metered gas, and adds reporting requirements for operators to annually submit a well inventory and an accounting of bonding for all open wells.

PURPOSE: A history of the production of an oil or gas well is important in the evaluation of a particular well[, lease] or pool. Reservoir characteristics, fluid behavior, and production can be used for studies and estimates of production on future pools. Use of production data and reservoir analyses included on monthly reports can be correlated with recovery techniques to promote conservation and to prevent waste in the oil industry. This rule provides for the filing of monthly status, production, and water disposal reports, with certain waivers.

(1) Record Retention. Each operator of an injection well shall keep current, accurate records of the amount and kind of fluid injected into the injection well and shall preserve these records for five (5) years.

(2) Monthly Reporting.

*[(1)]***(A)** *[Monthly w]***W**ell status *[and production]* **of each open well in a unit shall be reported by each operator monthly on a form provided by the department. The** report*[, approved form OGC-9,]* shall be prepared in full and submitted to the state geologist no later than *[thirty (30)]* **forty-five (45) calendar** days after the end of each calendar month. *[The status of each well on a lease is requested on a monthly basis. Production data may be presented by each lease unless requested otherwise by the council.]*

(B) Well production shall be reported by the first purchaser of the oil or gas monthly on a form provided by the department. The report shall be prepared in full and submitted to the state geologist no later than forty-five (45) calendar days after the end of each calendar month. Production may be presented for each unit unless requested otherwise by the state geologist or the council.

*[(2)]***(C)** *[Monthly report of injected fluids, approved form OGC-10,]* **Disposal of produced water shall be reported monthly on a form provided by the department. The report** shall be prepared in full and submitted to the state geologist no later than *[thirty (30)]* **forty-five (45) calendar** days after the end of each calendar month. The **report must include the amount, type, and** method of disposal of all fluids produced from oil wells, gas wells, or *[enhanced recovery operations must be clearly stated. Water produced from underground gas storage reservoirs that is disposed of by injection is included]* **underground gas storage reservoirs**.

[(3) In the event monthly data requested by form OGC-9 are available on another format as a result of machine printout, the form may be accepted in lieu of form OGC-9, provided a written request, accompanied by a sample printout, has been submitted to the state geologist for his/her approval.]

(D) Each party who owns, maintains, or operates the metering device used to record gas produced from each unit or well in any gas field shall file a monthly volume report showing the amount of gas actually metered on each unit, and may be directed by the state geologist to file a volume report showing the amount of gas actually metered for each well for a specified time period. The monthly volume report shall be prepared in full and submitted to the state geologist no later than forty-five (45) calendar days after the end of each calendar month.

*[(4)]***(E) The required** *[M]***m**onthly **gas** well status and production reports may be waived by the state geologist upon application *[in the event that gas]* **by the operator of the well when** production *[by an owner]* **from the well** is for *[his/her]* **the owner's** sole and *[private]* **non-commercial** use.

[(5) If mechanical failure of an injection well should occur or if other conditions should develop that threaten or could threaten to contaminate an aquifer, the operator or an authorized representative shall notify the state geologist as soon as possible by telephone and letter. The letter shall be complete and accurate and shall contain the operator's estimate of the nature of the problem(s).

(6) The operator shall be required to monitor the injection pressure and injection rate on each injection well at least on a monthly basis, with the results reported annually on form OGC-12, to the state geologist.]

(3) Annual reporting.

(A) Each operator of an injection well shall submit an annual injection well monitoring report on a form provided by the department. The report for the previous calendar year shall be submitted to the state geologist on or before March 1 of the following year.

(B) Each operator shall submit annually a complete inventory report of all open wells as of December 31. The report shall be submitted to the state geologist on or before January 31.

(C) Each operator shall submit an annual bonding report, on a form provided by the department, providing documentation of sufficient bonding for all open wells, as required by Chapter 259, RSMo, and implementing regulations. The report shall be submitted to the state geologist on or before January 31 of each year and shall include a signed and notarized statement from any applicable surety or issuer of a letter of credit or certificate of deposit documenting that the referenced bonds are valid and in full force.

*[(7)]***(4)** All *[monitoring]* **monthly and annual** reports will be on file at the office of the state geologist and will be retained and available for at least five (5) years.

*AUTHORITY: section[s 259.060 and] 259.070, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-2.080 Monthly Reports
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$176,666	$181,966	$187,425	$193,048
			Average Need (FY18-FY21)		***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.090 Disposal of Fluids by Injection. The council is amending the purpose, numbering and amending section (1), and adding sections (2) and (3).

PURPOSE: This amendment incorporates the requirement of a permit to inject as specified in proposed new rule 10 CSR 50-2.055, specifies criteria for where disposal of produced fluid through injection is prohibited, and clarifies the required setback distance.

*PURPOSE: In some phases of the producing life of some reservoirs, large quantities of [salt] **formation** water may be produced along with the oil and gas. Adequate protection of [fresh water supplies] **underground sources of drinking water** lies in the proper disposal of this [salt] **produced** water. Rather than allowing the [salt] **produced** water to flow onto the land surface and into streams and rivers, a more satisfactory method of disposal is [the] **to** inject[ion of] this water into permeable subsurface [formations] **strata** that do not contain [fresh] **underground sources of drinking** water. This rule provides [that] details such as quality and quantity of the water and well construction **that** are to be submitted to the state geologist for approval **prior to such injection** to [i]ensure that [potable water supplies] **underground sources of drinking water** are adequately protected.*

(1) *[Before produced]* **Prior to the disposal of** fluids *[may be disposed of]* by injection**,** *[into subsurface strata, pertinent data concerning details of the proposed operation, forms OGC-3-I, OGC-4-I and OGC-11 and any other information required shall be submitted to and]* **an application for permit to inject must be** approved by the state geologist *[before injection may begin]* **as provided in 10 CSR 50-2.055**.

(2) Other than within the original production strata, disposal of produced fluid from an oil or gas operation is prohibited into an oil or gas reservoir, a potential oil or gas reservoir, or an underground source of drinking water unless that drinking water source has been exempted, or unless otherwise approved by the state geologist.

(3) Disposal wells must be located a minimum of one hundred sixty-five feet (165') from a unit boundary.

*AUTHORITY: section 259.070, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Oct. 14, 1981, effective Feb. 11, 1982. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.100 *[Fluid Injection]* ***Enhanced Recovery*** **Projects**. The council is amending the title, purpose, and section (1), and deleting sections (2) and (3).

PURPOSE: This amendment clarifies the process for enhanced recovery project application and removes sections that are repetitive from other rules.

*PURPOSE: [Water flooding, a type of secondary] **Enhanced** recovery[,] **projects** utilize[s water] **fluids**, including **but not limited to,** produced [salt] water**, steam, or natural gas,** by [injecting this water] **injection** into a**n** [depleted or nearly depleted] oil reservoir to [flush out a secondary crop of] **recover additional** oil. [In many cases, w]**W**here the oil is difficult to [flush] **recover** with water **or steam**, certain chemicals are often added to increase the efficiency of water as an oil-recovery agent. [This practice] **These enhanced recovery methods** help[s] maintain reservoir pressure and increase[s] the ultimate amount of oil that can be obtained from a particular [reservoir] **pool**, thereby preventing the waste of natural resources. This rule provides for the protection of groundwater by requiring approval [of] **by** the state geologist [concerning pertinent] **of certain** details of the **enhanced recovery** project [and the submittal of monthly reports to the state geologist]. [Also] **In addition, this rule protects** the [correlation] **correlative** rights of the **offset property** owners [are protected] by [the prior] **requiring the state geologist's** approval of well spacing and [lease] **production unit** line requirements [by the state geologist] **prior to the commencement of operations**.*

[(1) Fluid injection] **Enhanced recovery** projects*[, not otherwise classified as research or development projects by the council,]* **designed for the secondary or tertiary recovery of oil or gas** may be approved as **part of a proposed production** unit*[s within themselves]*. **Production** *[U]***u**nit approval may be requested by submitting to the state geologist a**n** *[project report]* **application** specifying all pertinent details of the proposed project **as detailed in 10 CSR 50-3.020(2)**.

[(2) Fluid injection projects shall be governed by well-spacing and lease-line requirements under 10 CSR 50-2.070.

(3) Monthly reports shall be submitted in accordance with 10 CSR 50-2.080. Additional monthly operating reports may be requested in the future by written order of the council.]

*AUTHORITY: section[s 259.060 and] 259.070, RSMo [1986] **Supp. 2013**. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to

summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED RESCISSION

10 CSR 50-2.110 Special Projects and Research Projects. This rule permitted the council to give special consideration to development of potential resources such as these.

PURPOSE: This rule is being rescinded as the substantive requirements are included in the proposed amendment to 10 CSR 50-5.010 to clarify the language and make the rules easier to read.

AUTHORITY: sections 259.060 and 259.070, RSMo 1986. Original rule filed Oct. 11, 1966, effective Oct. 21, 1966. Amended: Filed Sept. 12, 1973, effective Sept. 22, 1973. Rescinded: Filed Sept. 15, 2015.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 2—Oil and Gas Drilling and Production

PROPOSED AMENDMENT

10 CSR 50-2.120 Gas Storage Operations. The council is amending the purpose and section (1).

PURPOSE: This amendment clarifies the setback requirements for gas storage injection wells.

PURPOSE: The development of gas storage operations requires that they be addressed by the state. This ***rule*** *will ensure protection of [the state's] underground sources of drinking water.*

(1) Gas storage operations that inject gas that is liquid at standard temperature and pressure **to be recovered at a later date for use** shall comply *[to]* **with** all rules pertaining to injection wells**, except that such wells may not be drilled closer than approximately three hundred thirty feet (330') from the boundary of the gas storage operation**.

AUTHORITY: [Chapter 259] ***section 259.070****, RSMo [1986]* ***Supp. 2013****. Original rule filed Oct. 14, 1981, effective Feb. 11, 1982. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 3—*Well* Spacing *[Units]* for Oil and Gas Pools

PROPOSED AMENDMENT

10 CSR 50-3.010 *[Establishing]* **Spacing Units** ***for Primary Production***. The council is amending the title, purpose, chapter, text of the rule, and making new sections (1)–(3).

PURPOSE: This amendment, which includes language previously found in 10 CSR 50-2.070, incorporates all requirements for spacing of wells used for primary oil or gas production changes the size of standard spacing units for oil and gas production wells to meet current industry practice, clarifies the authorities of the state geologist and the council, and specifies the types of wells that are exempt from spacing requirements.

PURPOSE: Spacing patterns for wells in a pool or reservoir ***are established by this rule*** *to prevent waste,* ***to avoid the drilling of unnecessary wells,*** *to contribute to orderly development****,*** *and to protect [property]* ***correlative*** *rights [are established by this rule]. [It is common practice in establishing spacing units to insure that there will be sufficient distance between wells so that other wells and property will not be endangered if a blowout or fire occurs.] Wells should be located in a relatively uniform spacing pattern even under diversified ownership conditions to [prevent crowding of wells]* ***protect correlative rights*** *along property lines. [Preferably, spacing patterns should be such that the area allotted to each well will not be less than the approximate area that can be economically and efficiently drained by that well.]* ***Optimum spacing is considered to be the maximum number of reservoir acres that can be economically and efficiently drained by one (1) well within a reasonable time. For example, if one (1) well can be drilled economically on ten (10) acres and this is the area that can be drained efficiently, then the spacing or acreage attributable to the well should not be less than ten (10) acres. A well so spaced will ultimately recover as much oil for the ten (10) acres as would be recovered by more than one (1) well, thereby avoiding the drilling of unnecessary wells. This rule provides requirements for, and limitations on, the spacing of wells and for certain exceptions and exemptions thereto.***

(1) All wells for the primary production of oil and gas drilled into the same pool, except as explicitly exempted by this rule, shall be subject to spacing units as follows:

(A) Oil wells. Not more than one (1) oil well shall be drilled upon any tract of land into the same pool as specified in the following:

1. A standard spacing unit shall be ten (10) acres. The well

shall not be located closer than three hundred thirty feet (330') to any unit line, nor closer than six hundred sixty feet (660') to the nearest oil well completed in or capable of producing from the same pool. Except as provided in paragraph (1)(A)2., no oil well shall be drilled on less than ten (10) acres except by order of the state geologist; or

2. Due to the low natural reservoir pressure at shallow depths, oil may be drained economically and efficiently through primary production only by using smaller spacing units. A standard spacing unit for an oil well drilled to a total depth of less than one thousand five hundred feet (1500') shall be two and one-half (2.5) acres or three hundred thirty feet (330') from an oil well completed in or producing from the same pool and shall not be drilled nearer than one hundred sixty-five feet (165') from any unit line. No oil well shall be drilled on less than two and one-half (2.5) acres except by order of the state geologist; and

(B) Gas wells. Not more than one (1) gas well shall be drilled upon any tract of land into the same pool as specified in the following:

1. A standard spacing unit shall be a forty (40) acres. The gas well shall not be located closer than six hundred sixty feet (660') to any unit line, nor closer than one thousand three hundred twenty feet (1320') to the nearest gas well completed in or producing from the same pool. Except as provided in paragraph (1)(B)2., no gas well shall be drilled on less than forty (40) acres except by order of the state geologist; or

2. Due to the low natural reservoir pressure at shallow depths, gas may be drained economically and efficiently through primary production only by using smaller spacing units. A standard spacing unit for a gas well drilled to a total depth of less than one thousand five hundred feet (1500') shall be ten (10) acres or six hundred sixty feet (660') from a gas well completed in or producing from the same pool and shall not be drilled nearer than three hundred thirty feet (330') from any unit line. No gas well shall be drilled on less than ten (10) acres except by order of the state geologist.

(C) An operator may petition the state geologist to issue an order to *[The council may upon its own motion or upon the motion of any interested party and after notice and hearing]* establish spacing units of a specified and approximate uniform size and shape for *[each]* **a** pool *[within this state]* **for the purpose of preventing waste, avoiding the drilling of unnecessary wells, or protecting correlative rights. The state geologist may modify an order establishing spacing units to alter the size and shape of one (1) or more existing spacing units for the purpose of preventing waste, avoiding the drilling of unnecessary wells, or protecting correlative rights.**

(2) Only one (1) well that is in physical contact with the pool and capable of producing oil or gas or both is allowed in any given spacing unit.

(A) The state geologist, on an individual basis, may grant the drilling and production of one (1) or more increased density wells within a spacing unit, provided that the operator submits convincing technical evidence that the existing well(s) is not capable of efficiently draining the pool or portion thereof that resides within the confines of the spacing unit.

(B) The surface locations of all wells and all the points at which the wells are in physical contact with the pool shall occur no closer than a specified distance from the vertical boundary of a spacing unit, and this minimum distance is set in section (1) or in any order issued pursuant to subsection (1)(C). The state geologist, on an individual basis, subsequently may issue an order granting a location exception where the surface location of a well, or its contacts with the pool, or both, may be located closer than the specified minimum distance from the boundary of the spacing unit.

(C) Any injection well and any surface or subsurface device that redirects the natural movement of oil, gas, or formation water in a pool is prohibited at any location within spacing units under primary production, and the drainage of oil, gas, and formation water into the well must be allowed to occur naturally. All injection projects or other enhanced recovery of oil or gas must be done in accordance with 10 CSR 50-3.020.

(D) Compressors that lower pressure inside wells for the purpose of increasing the ultimate recovery of gas may be used in spacing units. Compressors shall not induce a vacuum inside wells unless approved by the state geologist.

(3) The following are exempt from the requirements of spacing units:

(A) Offset wells that were drilled prior to the enactment of Chapter 259, RSMo, upon application to the state geologist and to protect against offset drainage;

(B) Any well that is drilled for enhanced recovery as part of the operation of a production unit, in accordance with 10 CSR 50-3.020;

(C) Wells whose purpose is for the disposal of produced water, non-usable gas, or other liquid or gaseous waste resulting from the production of oil, gas, or both;

(D) Stratigraphic test wells;

(E) Wells drilled expressly for operation of underground gas storage projects; and

(F) Non-commercial gas wells, if approved by the state geologist under the following conditions:

1. An operator may apply for the establishment of a spacing unit, consisting of one (1) or more contiguous separately owned tracts, on which a well no deeper than eight hundred feet (800') may be drilled without regard to section lines or property lines, provided that any well so allowed shall not be drilled closer than one hundred sixty-five feet (165') from the boundary of the spacing unit, unless approved by the state geologist;

2. An applicant for an exemption and establishment of a spacing unit under this subsection shall submit a well location map, as described in 10 CSR 50-2.030(3), outlining the area that will be affected by the proposed well and showing the location of the separate tracts, the names and addresses of landowners of the separate tracts, and the names and addresses of lessees of any tracts leased for oil, gas, or both. All wells, including but not limited to, dry, abandoned, producing, or shut-in wells on the proposed unit, and any well location for which drilling permits have been approved, shall be located accurately and designated on the map; and

3. Spacing exemptions may be granted upon application to the state geologist.

AUTHORITY: sections 259.100[,] ***and 259.120,*** *RSMo [1986]* ***2000****. Original rule filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 3—Well Spacing for Oil and Gas Pools

PROPOSED RULE

10 CSR 50-3.020 Production Units and Well Spacing for Enhanced Recovery

PURPOSE: Production units are small- to large-scale projects designed to maximize ultimate recovery of oil and gas from the entirety of a single pool or particular portion thereof through enhanced recovery. Enhanced recovery typically involves the use of injection wells.

(1) No well, including, but not limited to, those used for production or injection, drilled within a production unit shall be drilled nearer than one hundred sixty-five feet (165') from the production unit boundary. Stratigraphic test wells are exempt from this requirement.

(2) An operator may submit to the state geologist an application for the implementation of a production unit of a specified size and shape, with a well configuration of a certain nature of operation, for the purpose of an enhanced recovery project designed to maximize the ultimate recovery of oil or gas or both from the entirety of a single pool or particular portion thereof. The state geologist may approve the application if the proposed production unit is operated by a single operator or owner. If the proposed production unit includes more than one operator or owner, application shall be made to the council, according to procedures in 10 CSR 50-4.020. Any applicant for a production unit shall provide a description of the proposed production unit area, including the following information:

(A) Maps that show the unit boundary, cultural and natural surface features, areal extent of the pool, depth and thickness of the pool, location of any and all prior wells regardless of kind in the proposed unit area and those that occur within a one-half (1/2) mile-wide buffer area around the proposed unit;

(B) Location of all owner tracts;

(C) Location and pattern of all proposed production, injection, water supply and disposal wells that are to be drilled and operated for purpose of the proposed production unit; and

(D) Location of all surface facilities associated with the proposed production unit.

AUTHORITY: sections 259.100 and 259.120, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at P. Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-3.020 Production Units and Well Spacing for Enhanced Recovery
Type of Rulemaking:	New Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$176,666	$181,966	$187,425	$193,048
			Average Need (FY18-FY21)		***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)

   *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 4—Authorization of Pooling Units *and Unitization Agreements for Oil and Gas Pools*

PROPOSED AMENDMENT

10 CSR 50-4.010 Application for Authorization of a Pooling Unit *for Primary Production*. The council is amending the chapter, title, purpose, deleting and rewriting the text of the rule.

PURPOSE: This amendment clarifies the process for pooling mineral interests within a single spacing unit, either by voluntary or involuntary pooling.

PURPOSE: [In many instances tracts may be so small or shaped so that gas wells cannot be drilled on the tract in compliance with the general spacing rule. Pooling is closely related to spacing and refers to the integration of separately owned tracts, portions of tracts or interests to form a drilling unit. Voluntary or statutory pooling allows each owner to obtain a share of the oil and gas produced by the well on the pooled unit. This rule establishes the procedures for applying for an order for authorization of production pooling.] ***This rule sets forth the procedure for pooling mineral interests of separately-owned tracts, portions of tracts, or interests within a single spacing unit for primary production, to allow for the development and operations of the spacing unit.***

[An application for an order by the council for authorization of production pooling shall follow the procedure as stated in section 259.110, RSMo.]

(1) Before the commencement of drilling a well in a spacing unit, all owners, whether ownership is by deed or lease or farmout, shall enter into a contractual agreement whereby every owner pays his or her mutually agreed fair share of the drilling and operating costs and receives his or her fair share of the oil or gas or the profits produced therefrom. Contractual agreement is achieved by way of the pooling process pursuant to section 259.110, RSMo. The pooling process may be either voluntary or involuntary, as defined as follows:

(A) A voluntary pooling occurs when all owners of mineral interests enter into a private contractual agreement willingly and of their own accord. Voluntary poolings are executed privately with no involvement by the council; and

(B) An involuntary pooling occurs when one (1) or more owners of mineral interests are not able to enter into a private contractual agreement willingly and of their own accord, and the council, upon application by any interested owner and after notice and hearing, issues a pooling order that serves as the binding contractual agreement.

AUTHORITY: sections 259.110[,] ***and 259.120,*** *RSMo [1986]* ***2000****. Original rule filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 4—Authorization of Pooling Units and Unitization Agreements for Oil and Gas Pools

PROPOSED RULE

10 CSR 50-4.020 Application for Authorization of Unitization for Enhanced Recovery

PURPOSE: This rule sets forth a procedure for small- to large-scale cooperative development and operation projects that are designed to maximize ultimate recovery of oil and gas from the entirety of a single pool or particular portion thereof through the use of enhanced recovery projects within production units. Similar to the pooling process for primary production, unitization of production units for enhanced recovery involves contractual agreements between different owners and/or operators of existing producing wells, and a decision as to which one (1) of the operators will operate the production unit as a whole.

(1) The council, upon the written request of an applicant and upon receipt of the information specified in section (2) of this rule and after notice and hearing, may approve the implementation of a production unit of a specified size and shape, and a well configuration of a certain nature of operation, for the purpose of a cooperative development and operation project designed to maximize the ultimate recovery of oil or gas or both from the entirety of a single pool or particular portion thereof. All operators and owners in the proposed production unit shall enter into contractual agreement such that one (1) party is designated the operator of the production unit as a whole, and every owner pays his or her mutually agreed fair share of the drilling and operating costs and receives his or her fair share of the oil, gas, or both produced from the unit, or the profits derived from such production. Contractual agreement is achieved by way of the unitization process, which is either voluntary or involuntary as defined as follows:

(A) A voluntary unitization occurs when all operators and owners in the proposed production unit area are able to enter into a private contractual agreement willingly and of their own accord; and

(B) An involuntary unitization occurs when one (1) or more operators or owners are not able to enter into a private contractual agreement willingly and of their own accord, and the council, upon application by any person or party representing the voluntarily agreed production unit proponents that collectively hold at least seventy-five percent (75%) of the right to drill into and to produce oil and gas from the pool and at least seventy-five percent (75%) of all mineral interest and after notice and hearing, may approve the implementation of the production unit and issue a unitization order that serves as a binding contractual agreement for all parties and that, if necessary, designates the operator of the production unit as a whole.

(2) Any applicant for a production unit for the purpose of a cooperative development and operation project for enhanced recovery shall provide the following information to the council thirty (30) calendar days prior to the date of hearing:

(A) A description of the proposed production unit area, as specified in 10 CSR 50-3.020(3);

(B) A detailed description of the exact nature of the proposed unit operations; and

(C) Conformed copies of the applicable agreements, which may be composites of the executed counterparts.

AUTHORITY: sections 259.110 and 259.120, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 50—Oil and Gas Council
Chapter 5—*[Unitization of Oil and Gas Fields or Pools]* *Special Projects and Research Projects*

PROPOSED AMENDMENT

10 CSR 50-5.010 *[Application for Authorization for Voluntary and Statutory Unitization]* ***Special Projects and Research Projects***. The council is amending the chapter, title, purpose, deleting the text of the rule, and making new sections (1)–(3).

PURPOSE: This amendment deletes language that is included in the proposed new rule 10 CSR 50-4.020 in order to make the rules easier to read, incorporates requirements for special projects previously in proposed rescission 10 CSR 50-2.110, clarifies the role and authority of the state geologist to approve applications for special projects and research projects, and changes the confidentiality period to be consistent throughout 10 CSR 50.

PURPOSE: [The oil and gas in a subsurface reservoir constitute a common source of supply to any and all wells drilled into that reservoir. One well can drain a large area and is not limited by the surface survey lines that define separate tracts. While the petroleum is divided, the right to a share of the petroleum is divided. Thus, the petroleum in place in a reservoir must be divided and shared among the separate owners who exercise their rights by drilling into that reservoir. Pooling for well spacing eliminates property lines within the spacing unit, thereby eliminating the drilling of unnecessary wells. Maximum conservation can be obtained if this principle is extended to consolidate all the separately owned tracts within a reservoir into one unit. This is referred to as unitization. This rule establishes procedures for voluntary unitization of a field or pool or for statutory unitization of a pool or field through an order of the council.] ***The oil and gas reserves of the state at any one (1) time consist of that fraction of discovered oil and gas that can be economically recovered using existing technology. Since optimum recovery is dependent upon engineering and scientific achievements as well as economics, any development of new processes represents an increase in oil and gas reserves as well as an improvement in oil and gas conservation practices. By carefully matching recovery processes to individual reservoirs, it should be possible to greatly extend the potential that exists in unconventional oil and gas deposits of Missouri. This rule permits the state geologist and the council to give special consideration to development of potential resources such as these.***

[An application for an order by the council for the authorization of a unit or cooperative development and operation of a field or pool shall be in compliance with the statute as stated in section 259.120, RSMo.]

(1) To encourage development of economic recovery of oil and gas reserves in the state, in particular the research and development leading to economic recovery of unconventional oil and gas reserves, research or special projects whose objective is to devise and develop methods may be approved by the state geologist as units complete within themselves. Unit approval may be obtained by submitting to the state geologist a project report specifying all pertinent details of the proposed research or development project. Blanket approval for an application for a permit to drill wells may be granted at the discretion of the state geologist, provided the location and numbers of the wells are anticipated with a reasonable degree of accuracy.

(2) No well drilled as an oil or gas shall be drilled closer than approximately one hundred sixty-five feet (165') to a unit boundary.

(3) Reports of the pertinent details of overall project operation shall be submitted quarterly to the state geologist for his or her study and use. Confidentiality may be granted upon written request as required in 10 CSR 50-1.020.

AUTHORITY: section [259.120,] ***259.060,*** *RSMo [1986]* ***2000, and section 259.070, RSMo Supp. 2013****. Original rule filed Sept. 12, 1973, effective Sept. 22, 1973. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions twenty-six thousand three hundred ninety-seven dollars ($26,397) per year in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources' Geological Survey Program attention to Summer Young at PO Box 250, 111 Fairgrounds Rd., Rolla, MO 65402 or via email to summer.young@dnr.mo.gov. To be considered, comments must be received by November 18, 2015. A public hearing is scheduled for 10:00 a.m., November 16, 2015, at the Missouri Geological Survey, Mozarkite Conference Room, 111 Fairgrounds Rd., Rolla, MO.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	10 CSR 50-5.010 Application for Authorization for Voluntary and Statutory Unitization
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Natural Resources	$26,397 per year per applicable rule (one-seventh of $184,776 average annual cost for 2 FTE needed)

III. WORKSHEET

Expenditure Scenario F - 2 FTE	*FY17 Proj (eff 1/2017)*	*FY18 Proj*	*FY19 Proj*	*FY20 Proj*	*FY21 Proj*
Salaries (PS)					
1 Geologist III, 1 Sr Office Support Assistant	$ 42,162	$ 86,854	$ 89,459	$ 92,143	$ 94,907
Fringe Benefits *(social security, health ins., retirement, etc.)*	$ 20,196	$ 41,603	$ 42,851	$ 44,137	$ 45,461
Operating E&E *(travel, supplies, training, etc.)*	$ 22,222	$ 12,257	$ 12,625	$ 13,003	$ 13,394
Contractual Engineering	$ -	$ -	$ -	$ -	$ -
*Statewide Central Services, DNR Administration, OA ITSD, Leases/Rents	$ 21,610	$ 35,952	$ 37,031	$ 38,142	$ 39,286
Total	$ 106,190	$ 176,666	$ 181,966	$ 187,425	$ 193,048
		Average Need (FY18-FY21)			***$184,776***

$184,776 ÷ 7 = $26,397 per applicable rule

IV. ASSUMPTIONS

1. Projection Assumptions:
   - FY17 reflected as one-half year due to earliest potential effective date of fees; actual timing of first expenditures will be determined by revenue receipts/fund balance
   - FY17 includes one-time E&E needs; reduced in FY18
   - 3% pay plan/inflation beginning FY18
   - Average need calculated using 4 years since FY17 is only a partial year
   - Fringe benefits estimated using DNR rate of 47.9% (less than the statewide average rate)
   - *Indirect costs estimated using approved federal indirect cost rate of 25.55%

2. Additional staffing level needed to cover activities in new rules and amendments to 10 CSR 50-1.040, 10 CSR 50-1.050, 10 CSR 50-2.010, 10 CSR 50-2.055, 10 CSR 50-2.080, 10 CSR 50-3.020, and

10 CSR 50-5.010. Because implementation of this rule is dependent upon and in conjunction with the other rules, the total FTE expenditure provided was divided evenly among the seven applicable rules.

3. Anticipate duties of the Geologist III include: assist with oil and gas permitting; provide compliance assistance; maintain and account for: mechanical integrity testing (MIT), injection pressure determination testing, and well stimulation treatment projects; oversee and review oil and gas production projects; evaluate enhanced oil recovery projects and technologies; determine appropriate injection pressures and rates; oversee MITs; conduct field inspections; and ensure compliance with regulations.

4. Anticipate duties of the Senior Office Support Assistant include: input data; maintain and account for: operator registration, well bond reporting, well status and shut-in wells, production, resource valuation, recordkeeping, and general information requests; create and edit forms; provide administrative support; generate letters (notifications/reminders); generate reports; and perform financial tracking.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.010 Family Homes Offering Foster Care. The department is deleting sections (1) through (4) and adding new sections (1) and (2) of the rule and deleting and adding a new purpose.

PURPOSE: This amendment adds new definitions for foster parents who are obtaining foster family home licensure, and clarifies the process to apply for and review foster family home licensure.

PURPOSE: [This rule explains that the Children's Division is responsible for licensing foster homes. Terms used for this purpose are defined. The rule also gives procedures for approval, denial or revocation of a license.] ***The principles of this rule are to support the licensing of family homes that are resilient, safe, healthy, and economically secure and where the household members are committed to the parental protecting and nurturing of foster youth placed in the family home.***

[(1) Approval of License.

(A) As required in sections 210.481–210.536, RSMo 2000, any individual(s) planning to offer twenty-four (24)-hour care to one (1) or more foster children must submit signed application forms.

(B) Any applicant and any household member age seventeen (17) and older and any child less than seventeen (17) who has been certified as an adult for the commission of a crime, or has been convicted or pled guilty or nolo contendere to any crime, shall submit signed release forms and two (2) sets of fingerprints for the purpose of obtaining background screening for Child Abuse and Neglect, criminal and circuit court records.

1. Two (2) sets of fingerprints shall be sent to the Missouri Highway Patrol for criminal background checks.

2. Subject to appropriation, the total cost of fingerprinting required by section 210.487, RSMo Supp. 2005 may be paid by the state, including reimbursement of persons incurring the cost of fingerprinting under this subsection.

(C) Upon compliance with licensing law and regulations, the director shall authorize issuance of a license for a term not to exceed two (2) years, subject to renewal on expiration.

1. The license is not transferable and applies only to the individual(s) to whom it is issued. A license will be issued to either married couples or a single individual. Only one (1) license can be issued per household. All adults in the household who will have child care responsibility will be required to attend state approved foster parent training.

2. The license is the property of the division and is subject to suspension and/or revocation upon failure of the individual(s) to comply with the licensing requirements.

3. The license shall be kept on the premises of the home.

4. The number, sex and age range of foster children the home is authorized to accept for care shall be specified on the license and shall not be exceeded except for the temporary placement of sibling or mother and child family groups. The foster family shall be able to indicate age and gender preference.

5. There shall be no fee for the license or investigations conducted by the personnel of the division or providers contracted by the division.

6. An identification card shall be issued to each foster parent at the time of initial licensure or renewal, verifying current licensing status.

(2) Denial, Suspension, or Revocation of License.

(A) Any person aggrieved by a final decision of the division made with regard to license issuance, license suspension, license revocation or license denial shall be entitled to a hearing and review by the director or his/her designee.

(B) Written notice, specifying the reasons for denial, suspension, or revocation, shall be provided. Any notice for suspension or revocation shall be given ten (10) days prior to the effective date of the action. If a written request for a hearing is received within thirty (30) calendar days from the date of the notice, a hearing will be provided.

(C) The division will retain the option not to renew a foster home license in cases where there has been a voluntary suspension for one (1) year or more or if a licensed foster home has not accepted a placement over a two (2)-year period.

(D) Any person wishing to appeal the administrative decision of the division shall be entitled to judicial review thereof provided in section 210.526, RSMo 2000.

(3) Utilization of Home.

(A) The granting of a license does not guarantee placement of a child.

(B) Placement decisions shall be made at the discretion of the Children's Division and/or Juvenile Court in the best interest of the child based on a totality of circumstances. Parental preferences will be taken into consideration in selecting the placement provider.

(4) Exemption. Any foster home that is exempt from licensing under sections 210.481–210.536, RSMo 2000 but receives a payment from the division under section 207.020.1(17), RSMo 2000 shall comply with these rules.]

(1) For the purpose of this regulation, the following terms shall be defined as follows:

(A) Foster Parent. A resource provider licensed under these regulations who operates a foster family home, or relatives of a child in foster care who are licensed to provide relative care;

(B) Relative. A relative is a person related to another by blood, adoption, or affinity within the third degree;

(C) Relative Care. Care provided by persons related to the foster youth in any of the following ways by blood, marriage, or adoption: grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin;

(D) Traditional Foster Family Home. A private residence of one (1) or more family members providing twenty-four- (24-) hour care to one (1) or more, but less than six (6) children who are unattended by parent or guardian and unrelated to either foster parent by blood, marriage, or adoption;

(E) Foster Youth or Foster Child. A person in the custody of the Children's Division to a maximum age of twenty-one (21) years of age;

(F) Family Support Team (FST). The group of individuals assembled to participate in a Family Support Team Meeting, a meeting convened by the division or another children's services provider on behalf of the family and/or child for the purpose of determining service and treatment needs, determining the need for placement, developing a plan for reunification or other permanency options, determining the appropriate placement of the child, evaluating case progress and establishing, and revising the case plan;

(G) Waiver. Authorization by the Children's Division to excuse certain relative care providers from specifically identified non-safety licensing standards;

(H) Foster Family Home Applicant. One (1) or two (2) primary

adult individual(s) who live in the same household and complete and submit a prescribed application to provide foster care services as parent substitutes to foster youth placed in the home. When two (2) individuals are applying—

1. Both individuals must be assessed separately as if they were applying as a single individual;

2. If either applicant cannot be approved, the application shall be denied; and

3. If both applicants are approved, a single license certificate shall be granted listing the names of both applicants;

(I) Resource Provider. Licensed foster parent as required by 13 CSR 35-60; and

(J) Administrative Hold. License status of a foster parent that is operating under a provisional status due to licensing concerns, an investigation or assessment of abuse or neglect in the home, or other reasons as identified in Children's Division policy.

(2) Process for applying for a license, or for the renewal of a license, as a foster family home.

(A) As required in sections 210.481–210.536, RSMo, any individual(s) planning to offer twenty-four- (24-) hour care to one (1) or more foster children must submit a signed copy of the application form approved by the Children's Division.

(B) The applicant for the license renewal shall have the burden to establish by a preponderance of evidence that the applicant satisfies all of the qualification requirements for a license.

(C) The applicant for a license or the renewal of a license shall provide any and all documentation and shall execute such authorizations to release information that the Children's Division may determine to be necessary or convenient to obtain information about the applicant and members of the applicant's household. If the applicant, or any member of the applicant's household, fails without good cause to provide the information or fails to execute an authorization to release the information, the division may deny the license.

(D) Any applicant, any household member age seventeen (17) and older, and any child less than seventeen (17) who has been certified as an adult for the commission of a crime, or has been convicted or pled guilty or *nolo contendere* to any crime, shall register with the Family Care Safety Registry (FCSR) and submit signed release forms and fingerprints for the purpose of obtaining background screening for child abuse or neglect, criminal, and circuit court records.

1. Fingerprints shall be sent to the Missouri State Highway Patrol for criminal background checks.

2. Subject to appropriation, the total cost of fingerprinting required by section 210.487, RSMo may be paid by the state, including reimbursement of persons incurring the cost of fingerprinting under this subsection.

(E) Upon compliance with licensing law and regulations, the director shall authorize issuance of a license for a term not to exceed two (2) years, subject to renewal on expiration.

1. The license is not transferable and applies only to the foster family home to whom it is issued. Upon approval, a single license listing the individual(s) shall be issued. Only one (1) license can be issued per household. All adults age seventeen (17) and older in the household who will have child care responsibility will be required to attend state approved foster parent training.

2. The license is the property of the division, not the licensee, and is subject to revocation upon failure of the individual(s) to comply with the licensing requirements. A licensee does not have a right to renewal of his or her license.

3. The license shall be kept on the premises of the home. The license is a public record and shall, upon request, be made available for inspection.

4. The number, sex, and age range of foster children the home is authorized to accept for care shall be specified on the license and shall not be exceeded except for the temporary placement of sibling or mother and child family groups. The foster family shall be able to indicate age and gender preference.

5. There shall be no fee for the license or investigations conducted by the personnel of the division or providers contracted by the division.

6. An identification card shall be issued to each foster parent at the time of initial licensure or renewal, verifying current licensing status.

(F) The division shall maintain a file on each applicant for a foster care license. The file shall contain any and all information pertinent to the licensing process including, but not limited to, the application for license and renewals of license and all supporting documentation. Except as otherwise provided herein or otherwise required by law, information contained in a foster care licensing file that may be confidential and not disclosed to the public includes, but is not limited to:

1. Information which is confidential under the Missouri Sunshine Law, section 610.010 *et seq.*, RSMo;

2. Protected health information of the applicant and household members as provided in HIPAA, 45 CFR Parts 160 and 164;

3. Information regarding foster children placed in the home;

4. Information relating to substance abuse diagnosis, care, and treatment, which is confidential pursuant to 42 CFR Part 2.1 and other applicable federal law;

5. Identifying information, addresses, and contact information, the release of which may put the health or safety of foster children, foster parents, or household members at risk; and

6. Other information as may be ordered by a court of competent jurisdiction. Notwithstanding, any provision in these rules to the contrary, parents and legal guardians may have access to information pertaining to foster parents as provided in section 210.498, RSMo.

(G) License Supervision.

1. Licensing staff of the division or its contractor may inspect the foster family home at reasonable times to verify compliance with the licensing rules.

2. The licensee shall cooperate with such inspections. Notwithstanding any provision in these rules to the contrary, parents and legal guardians may have access to information pertaining to such inspections as provided in section 210.498, RSMo.

*AUTHORITY: section[s] 207.020, **RSMo Supp. 2014,** and **section** 210.506, RSMo 2000. Emergency rule filed July 18, 2006, effective Aug. 4, 2006, expired Jan. 30, 2007. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.020 *[Number of Children]* ***Capacity of Foster Homes***. The department is renaming the title of the regulation, amending section (1), adding and amending new section (3), amending new

section (4), and renumbering the rule.

PURPOSE: This amendment changes the number of children whom may be placed in a foster home, and provides a maximum capacity for youth with elevated or medical needs.

(1) The maximum number of children in a foster home shall not exceed *[six (6) including any of the foster parents' own children]* **five (5)**. *[A child counts as any individual under age eighteen (18), with the following exceptions:]* **Each foster child shall be counted as one (1) placement. The children of the foster parent are counted within the maximum until they reach the age of eighteen (18) years. The Children's Division may waive the maximum number of children who may be placed in the same foster home to permit the placement of foster children sibling groups and placement of a minor parent and his/her child(ren).**

[(A) Foster children sibling groups; and

(B) Minor mother and child family groups.]

(3) The maximum capacity of homes providing care for youth with elevated needs as defined in 13 CSR 35-60.070 and youth with elevated medical needs as defined in 13 CSR 35-60.100 shall not exceed four (4) placements with no more than two (2) placements of youth with elevated needs. The children of the foster parent are counted within the maximum until they reach the age of eighteen (18) years.

*[(3)]***(4)** Any foster home exceeding the regulated total numbers at the time these regulations are adopted shall continue to qualify for license if all other requirements are met. Additional foster children shall not be placed in these homes until such time as they can comply *[to]* **with** this rule.

*[(4)]***(5)** Foster parents shall notify the division of all contracts for the care of children held at the time of application for an initial license or gained after licensure.

*[(5)]***(6)** If a licensed foster parent is dually licensed as a child care provider, no foster child under the age of seven (7) may be placed in that home unless necessary to accommodate a sibling group on a temporary basis. The number of foster children shall not cause the dually licensed provider to exceed child care licensed capacity.

*AUTHORITY: section[s] 207.020, **RSMo Supp. 2014,** and **section** 210.506, RSMo 2000. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.030 Minimum Qualifications of Foster Parent(s). The department is amending sections (3), (5), (6), and (7) of the rule.

PURPOSE: This amendment corrects terminology to make it consistent and corrects a typographical error.

(3) Personal Qualifications Required of Foster Parent(s).

(A) Foster parent(s) must be able to acquire skills and demonstrate performance based competence in the care of children including**,** but not limited to:

1. Protecting and nurturing;
2. Meeting developmental needs and addressing developmental delays;
3. Supporting relationships between children and families;
4. Connecting children to lifetime relationships; and
5. Working as a member of a professional team.

(B) Foster parents shall cooperate with the division in all inquiries involving the care of the foster children. The foster parents' ability to meet these competencies shall be reevaluated at each *[relicensure]* **re-licensure**.

(5) Foster Parent Training.

(A) *[Preservice]* **Pre-service** Training. Prior to licensure**,** each adult with parenting responsibilities is required to successfully complete a competency based training approved by the *[licensing agency]* **Children's Division**.

(6) Personal information elicited in the *[homestudy]* **home assessment** shall include**,** but not be limited to:

(D) Lifestyles and practices*[, including sexual orientation,]* of the foster parents;

(7) Parenting Skills Information Elicited in the *[Homestudy]* **Home Assessment**.

*AUTHORITY: section[s] 207.020, **RSMo Supp. 2014,** and **section** 210.506, RSMo 2000. Emergency rule filed July 18, 2006, effective Aug. 4, 2006, expired Jan. 30, 2007. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.040 Physical Standards for Foster Homes. The department is amending section (2) of the rule.

PURPOSE: This amendment clarifies the required sleeping arrangements necessary for foster children.

(2) Sleeping Arrangements.

(E) Except as provided in subsection (F) below, foster children

shall not sleep in the bedroom of an adult age twenty-one (21) years and older.

*[(E)]***(F)** Foster children two (2) years of age or older shall not sleep in the bedroom of the foster parents except for special temporary care, such as during a child's illness. Foster children should never sleep in a bed with foster parents.

*[(F)]***(G)** Each bed or crib shall be of a size as to insure comfort of the foster child, shall have a firm mattress or an orthopedic supportive surface, in good, clean condition with waterproof covering, if needed, and suitable covers adequate to the season.

*[(G)]***(H)** Each foster child under age two (2) shall have a separate bed. Each foster child over age two (2) shall have bed space equivalent to one-half (1/2) of a full-size bed. The abuse and neglect history of each child should be taken into consideration before allowing them to share a bed with another child.

*[(H)]***(I)** Separate and accessible drawer space for personal belongings and closet space for clothing shall be available for each foster child.

AUTHORITY: section[s] 207.020, ***RSMo Supp. 2014,*** *and* ***section*** *210.506, RSMo 2000. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.050 Care of Children. The department is amending section (1) and adding subsection (10)(D) of the rule.

PURPOSE: This amendment clarifies the requirements of a foster parent in the event the foster parent's household members change, as well as clarifying the requirements for travel reimbursement.

(1) Foster parents shall cooperate in the division's delivery of social services to the foster child's family.

(B) The foster parent(s) shall notify the *[licensing agency within]* **division or its contractor at least** two (2) weeks *[of any pertinent]* **prior to any** change in family situation including**,** but not limited to, a change in address, telephone number, employment, household composition, **or** marital status*[, arrest, convictions or guilty pleas]*.

(C) Except in family emergencies, the foster parent(s) shall notify the division or its contractor within two (2) weeks of any intended addition to household membership so that background checks may be completed and results obtained and approved prior to the individual moving in. In family emergency situations, the foster parent shall notify the division or its contractor so that background checks may be completed immediately thereafter.

(D) The foster parent(s) shall notify the division or its contractor if any member of the household is arrested, pleads guilty to, or is convicted of a criminal offense.

(10) Transportation.

(D) Reimbursement of mileage allowed per Children's Division policy is not a guaranteed payment and is subject to the same restraints as provided in the ***Department of Social Services Administrative Manual*** **travel policy for state employees.**

AUTHORITY: section[s] 207.020, ***RSMo Supp. 2014,*** *and* ***section*** *210.506, RSMo 2000. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED AMENDMENT

13 CSR 35-60.060 Records and Reports. The department is amending subsection (2)(A) of the rule.

PURPOSE: This amendment corrects a typographical error.

(2) Contents.

(A) Foster child's name, birth date, date of placement, county of original jurisdiction, placement county, case manager's name and office telephone number and an *[after hours]* **after-hours** telephone number for the case manager.

AUTHORITY: section[s] 207.020, ***RSMo Supp. 2014,*** *and* ***section*** *210.506, RSMo 2000. Original rule filed July 18, 2006, effective Jan. 30, 2007. Amended: Filed Sept. 15, 2015.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED RULE

13 CSR 35-60.080 Licensing Standard Waivers for Relative Resource Providers

PURPOSE: This rule describes the waiver of certain non-safety foster home licensing standards to be granted on a case-by-case basis for relatives to become licensed as relative resource providers.

(1) A relative care provider shall meet all licensing requirements to be licensed as a foster home. Notwithstanding the other provisions of this rule, the Children's Division may grant a waiver of non-safety licensure standards on a case-by-case basis. The Children's Division will grant a waiver of non-safety foster home licensing standards only if the relative provider establishes the safety and well being of the relative foster child(ren) can be assured if the waiver is granted.

(2) Only the following licensing non-safety standards may be waived to license a relative resource provider under this regulation:

(A) The requirements of 13 CSR 35-60.020(1), (2), and (3);

(B) The requirements of 13 CSR 35-60.030(1), (4)(A), (4)(B), and (5)(B); and/or

(C) The requirements of 13 CSR 35-60.040(1)(A),(1)(B),(2)(D) through (F), and (2)(I).

AUTHORITY: section 207.020, RSMo Supp. 2014, section 210.565, RSMo Supp. 2013, and section 210.506, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED RULE

13 CSR 35-60.090 Denial or Revocation of License

PURPOSE: This rule addresses the procedures for license denial or revocation and the right for a hearing for a foster parent who is aggrieved by denial or revocation of his/her license, as required by section 210.526, RSMo.

(1) The division may deny a license to an applicant, or may revoke the license of a licensee, if the applicant or anyone in the applicant's household—

(A) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535, RSMo, and the rules of the Children's Division promulgated thereunder;

(B) Violates any of the provisions of its license;

(C) Violates state laws and/or rules relating to the protection of children;

(D) Furnishes or makes any misleading or false statements or reports to the division;

(E) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in conducting an investigation;

(F) Fails or refuses to admit authorized representatives of the division into his/her home at any reasonable time for the purpose of investigation;

(G) Fails or refuses to submit to an investigation by the division;

(H) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home;

(I) Fails to provide financial resources adequate for the satisfactory care of and service to children being served and the upkeep of the premises; or

(J) Abuses or neglects children, or is the subject of reports of child abuse or neglect which upon investigation result in a court adjudicated, probable cause and/or preponderance of evidence finding, or is found guilty, pleads guilty to, or pleads *nolo contedere* to felony crimes against a person to include, but not limited to, felony possession, distribution or manufacturing of controlled substance crimes as specified in Chapters 195, 565, 566, 567, 568, and 573, RSMo, or a substantially similar offense if committed in another state or country. The division may also deny or revoke a license to any person(s) who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure.

(2) The division shall provide written notice of denial or revocation of a license. The notice shall—

(A) Inform the applicant or licensee of the nature of the decision;

(B) State generally the factual and legal basis for the division's decision;

(C) State the effective date of the application, if applicable; and

(D) Notify the licensee of his/her right to seek administrative review.

(3) At any time during the denial or revocation process, the division may issue an amended notice of denial or revocation if additional, relevant information is discovered.

(4) Any notice for revocation shall be given ten (10) days prior to the effective date of the action.

(5) The licensee or applicant may not reapply for licensure within one (1) year from the date of denial or revocation. If a licensee or applicant for license has previously had an application for foster parent license denied or revoked by the State of Missouri or any other state or country, the applicant shall fully disclose the reasons for the denial or revocation and shall establish by preponderance of the evidence that the reasons for the license denial or revocation have been cured or no longer exist.

(6) The Children's Division will retain the option not to renew a foster home license in cases where a licensed foster home has not accepted a placement over a two- (2-) year period.

(7) Hearing on Administrative Review.

(A) The applicant/licensee who is aggrieved by the decision of the division to deny a license application, deny license renewal, or revoke an existing license shall have the right to a hearing on administrative review of the division's decision.

(B) The licensee or applicant for a license may appeal the decision of the division to deny or revoke the license by filing a written request for administrative review with the division within thirty (30) days after the date of the notice of denial or revocation. The request for administrative review shall set forth the basis of the applicant/licensee's objection to the division's decision.

(C) The division may attempt to resolve the issue with the aggrieved party with an informal meeting prior to the hearing.

(D) If renewal of a license is denied and an administrative review hearing is properly requested, the applicant's current license shall be placed on administrative hold pending the entry of an order after the administrative review hearing.

(E) If an existing license is revoked and an administrative review hearing is properly requested, the license shall be placed on administrative hold pending the entry of an order after the administrative review hearing.

(F) If the licensee or applicant for a license requests an administrative review hearing, the division shall hold said hearing following the procedures for an administrative review hearing in contested cases as set forth in Chapter 536, RSMo. The Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services (Administrative Hearings Unit) shall hold all hearings. The Administrative Hearings Unit shall be authorized to issue subpoenas and subpoenas *duces tecum* pursuant to section 536.077, RSMo.

(G) After the hearing, the Administrative Hearings Unit shall issue a written decision and, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement, the decision, including orders refusing licenses, shall include or be accompanied by, findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. Immediately upon deciding any contested case, the agency shall give written notice of its decision by delivering or mailing such notice to each party, or his/her attorney of record, and shall upon request furnish him/her with a copy of the decision, order and findings of fact and conclusions of law.

(H) The decision of the Administrative Hearings Unit shall be the final decision of the division. Any person aggrieved by a final decision of the division shall be entitled to judicial review as provided in sections 210.526 and 536.100 through 536.140, RSMo.

AUTHORITY: section 207.020, RSMo Supp. 2014, section 210.565, RSMo Supp. 2013, and section 210.506, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED RULE

13 CSR 35-60.100 Foster Care Services for Youth with Elevated Medical Needs

PURPOSE: This rule defines foster care services for youth with elevated medical needs.

(1) Definitions for the purpose of this regulation.

(A) Youth with Elevated Medical Needs—a youth or child with medically diagnosed extraordinary medical condition(s) and or physical or mental disabilities as set forth in section (3) of this regulation.

(B) Resource provider—a foster parent who has a current license issued pursuant to 13 CSR 35-60.010–13 CSR 35-60.110.

(C) All other terms used in this regulation shall be defined consistent with 13 CSR 35-60.070.

(2) Process for identifying Youth with Elevated Medical Needs.

(A) The Children's Division may conduct a medical needs assessment on the recommendation of the youth's family support team, any member of the family support team, at the written request of the youth's resource provider, or if ordered to do so by the court.

(B) The written request shall include: a completed assessment tool on a form provided by the division and all supporting medical documentation. The medical documentation shall include, at a minimum, the name and address of each of the youth's physicians. Any person submitting a request shall provide any additional documentation as requested by the Children's Division to process the request. The person submitting the request shall have the burden to prove by a preponderance of the evidence that the youth meets the criteria for a youth with elevated medical needs as, set forth in this regulation.

(C) Upon receipt of the request, assessment tool and all supporting documentation, the division will determine whether or not the youth is a youth with elevated medical needs as specified in this regulation. The Children's Division will provide written notification of its decision to the person submitting the request.

(3) Characteristics of a Youth with Elevated Medical Needs. In order to qualify as a youth with elevated medical needs, the youth must have a diagnosed medical or mental health condition that requires twenty-four- (24-) hour availability of a resource provider specifically trained to meet the elevated medical needs in order to successfully function in a foster family home setting and does not require placement in an institutional setting such as residential care or a hospital. A youth with elevated medical needs must meet the criteria outlined in subsection (A) or (B) below:

(A) Youth with elevated medical needs will have at least one (1) of the following diagnosed conditions and that the condition significantly and substantially impairs the youth's ability to function on a daily basis:

1. Down Syndrome
2. Trisomy 18 (Edward's Syndrome)
3. Triple-X Syndrome
4. Pierre Robin Syndrome
5. Cystic Fibrosis
6. Cancer
7. Autism Spectrum Disorders
8. Cri-du-Chat Syndrome
9. Trisomy 13 (Patau's Syndrome)
10. Fragile X Syndrome
11. Epilepsy/Seizure Disorder
12. Cerebral Palsy
13. HIV positive status
14. Fetal Alcohol Syndrome
15. Klinefelter's Syndrome
16. Turner's Syndrome
17. Prader-Willi Syndrome
18. Spina Bifida
19. Sickle Cell Disease
20. PKU (phenylketonuria)
21. Systemic Lupus Erythamatosus
22. Hypoxic-Ischemic Encephalopathy (HIE) and at term (36 weeks gestation or more)
23. Short Gut Syndrome with Dependence on Parenteral Nutrition
24. Visual Impairment which meets the following criteria:
    A. A medical diagnosis of visual acuity 20/70 or less in the better eye with maximum correction; or
    B. A very limited field of vision (20 degrees at its widest point); or
    C. A progressive disease leading to either of the above.
25. Congenital viruses/bacteria, herpes, syphilis, cytomegalovirus, toxoplasmosis, and rubella
26. Cranio-facial anomalies (*i.e.*, cleft palate, etc.)
27. Hearing impairments, which meets the following criteria:

A. For children below five (5) years of age, inability to hear air conduction thresholds at an average of forty (40) decibels (db) hearing level or greater in the better ear; or

B. For children five (5) years of age and above:

(I) Inability to hear air conduction thresholds at an average of seventy (70) decibels (db) or greater in the better ear; or

(II) Speech discrimination scores at forty percent (40%) or less in the better ear; or

(III) Inability to hear air conduction thresholds at an average of forty (40) decibels (db) or greater in the better ear, and a speech and language disorder which significantly affects the clarity and content of the speech and is attributable to the hearing impairment.

28. Diabetes Mellitus Type I or Type II requiring daily glucose monitoring

29. Hydrocephalus with Ventriculo-Peritoneal Shunt

30. Cyanotic Congenital Heart Disease

31. Developmental delays in at least one (1) area severe enough to qualify for First Steps of Missouri early intervention program as provided in 34 CFR 303.322:

A. Cognitive development

B. Communication development

C. Adaptive development

D. Physical development, including vision and hearing

E. Social or emotional development

32. Immobility

33. Requires wheelchair and is dependent on mechanical support to be mobile.

34. Has appliance for breathing, feeding or drainage *i.e.,* catheter, colostomy, gastrostomy tube, or tracheostomy.

(B) Submission of written certification from the treating physician of a diagnosed serious or chronic medical condition that significantly and substantially impairs the foster youth's ability to function on a daily basis in a foster family home setting.

(4) Medical resource provider requirements for placement of youth with elevated medical needs. In order to qualify to receive the medical maintenance rate from the division, the resource provider shall—

(A) Be licensed as required in 13 CSR 35-60.010–13 CSR 35-60.110;

(B) Enter into a contract with the Children's Division to provide medical foster care;

(C) Successfully complete and provide documentation of the completion of individualized medical training specific to the needs of the youth provided by the youth's health care provider or other provider and approved by the division; and

(D) Be currently providing placement for a youth who meets the criteria of a youth with elevated medical needs.

(5) Reviews. After a youth has been identified as a youth with elevated medical needs, the Children's Division shall periodically review the status of the youth to determine whether the youth continues to meet the criteria for youth with elevated medical needs. The division shall conduct reviews as often as the division determines is necessary to assess the elevated medical needs of the youth, however, the division shall review the elevated medical needs at least annually.

(6) Termination.

(A) The Children's Division may terminate the youth's status as a youth with elevated medical needs when the Children's Division determines that the youth no longer meets the criteria as set forth in this regulation.

(B) The Children's Division will terminate the payment of medical rate maintenance to the resource provider when the youth no longer meets the criteria as set forth in this regulation or the criteria in section (5) are no longer met.

AUTHORITY: sections 453.073 and 453.074, RSMo Supp. 2014, and section 210.506, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes

PROPOSED RULE

13 CSR 35-60.110 Removal of a Parent from a Foster Family License

PURPOSE: This rule explains the process to remove one (1) foster parent from a foster family home license.

(1) If a licensee who was approved for a two- (2-) parent foster family home license moves away from the foster family home, both persons listed on the license shall notify the division in writing two (2) weeks prior to this change, or within two (2) weeks after its occurrence if the change in residence was unplanned.

(A) Each licensee on the two- (2-) parent license who desires to continue providing foster care services shall be re-assessed by the division as a single foster parent family home.

(B) Each licensee who fails to notify the division within the time frame identified herein will be in violation of their license and the division shall commence the revocation process as outlined in 13 CSR 35-60.090.

(2) If a licensee who was approved for a two- (2-) parent foster family home license dies, the surviving licensee shall notify the division in writing within two (2) weeks of the death.

(A) If the surviving licensee desires to continue providing foster care services, he or she shall be re-assessed by the division as a single parent foster family home.

(B) If the surviving licensee fails to notify the division within the time frame identified herein, he or she will be in violation of their license and the division shall commence the revocation process as outlined in 13 CSR 35-60.090.

AUTHORITY: sections 453.073 and 453.074, RSMo Supp. 2014, and section 210.506, RSMo 2000. Original rule filed Sept. 15, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Children's Division at ADRULESFEEDBACK.CD@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 5—Public Defender Fees for Services

PROPOSED RULE

18 CSR 10-5.010 Public Defender Fees for Services

PURPOSE: This rule establishes a schedule of charges to be assessed against individuals who are eligible for public defender services and who receive such services in accordance with Chapter 600 and section 600.090.1(2), RSMo, 2000.

(1) Application.

(A) The state public defender is statutorily obligated to represent individuals accused of certain crimes and who are without means to secure private defense counsel. Once an individual is determined eligible for services by the public defender or the court, the public defender shall immediately commence representation. Every individual receiving public defender services is required to reimburse the public defender commission for the costs of the representation in such amounts as the individual can reasonably pay, either in a single payment or by installments in accordance with the schedule of chargers hereby established by this rule.

(2) Schedule of Charges.

(A) The commission hereby establishes the following schedule of charges to be assessed as fees owed the state public defender for services rendered:

BASE SCHEDULE OF CHARGES

1. Entry with early withdrawal	$25.00
2. Misdemeanors and Probation Violation Cases	$125.00
3. Felonies, Appeals, and Post Conviction Remedies	$375.00
4. Felony Sex Cases	$500.00
5. Murder Non Capital and Civil Commitment Cases	$750.00
6. Capital Murder Cases	$1,500.00

(B) The fees assessed by the schedule of charges constitute the entire costs assessed against an individual receiving public defender services in an individual case. If an individual has more than one (1) case, a fee will be charged in each case according to the schedule of charges.

(C) When an individual is criminally charged with separate counts within the same indictment or information, the most serious count charged will determine the charge assessed as fees for the case.

(D) For good cause shown, the Office of the Public Defender may waive or reduce the amount assessed as a charge for services.

(3) No Fee Cases.

(A) No fees shall be assessed for state-provided defender services in cases in which the individual receiving services is under eighteen (18) years of age at the time the services commence and/or is legally unable to contract for services.

AUTHORITY: sections 600.017(10), 600.086, and 600.090, RSMo 2000. Original rule filed Sept. 11, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule could cost private entities approximately $1,182,808 a year (approximately 4,516 individuals).

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Public Defender Commission, 1000 West Nifong, Building 7, Suite 100, Columbia, Missouri 65203. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. Department Title: Title 18 – Public Defender Commission
Division Title: Division 10 – Office of State Public Defender
Chapter Title: Chapter 5 – Public Defender Fees for Services

Rule Number and Title:	18 CSR 10-5.010 Public Defender Fees for Services
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Est. 4,516 private individuals	No businesses – only private individuals are represented by the MSPD.	$1,182,808

III. WORKSHEET

These fees will be imposed on those who are charged with a criminal offense in Missouri and who are represented by the Missouri State Public Defender (MSPD) because they are determined to be indigent. A lien is filed against such individuals so that if they become able to pay in the future (i.e., they are no longer indigent), the MSPD can recover such fees. Based on FY 2013 (FY 2014 numbers are not yet available), the MSPD opened 75,278 cases within the fee categories set forth in the rule. If the MSPD was successful in collecting against 100% of the individuals represented by the MSPD, the total amount of fees collected would be approximately $19,224,750. Historically, the MSPD has only been able to collect a fraction of those costs, typically because those represented by the MSPD remain indigent. In FY2013, the MSPD collected approximately 6.1% of such fees, totaling $1,178,663. Using the fee schedule put forth as part of this rule and both the same number of cases that were opened in FY 2013 and the same collection rate, the projected amount of fees that will be collected from private individuals is $1,182,808.

IV. ASSUMPTIONS

The Missouri State Public Defender assumes that the ability to collect from those who have received criminal indigent legal services will remain constant.

Title 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 6—Outside Practice of Law by Public Defenders

PROPOSED RULE

18 CSR 10-6.010 Outside Practice of Law by Public Defenders

PURPOSE: This rule establishes the limited circumstances in which attorneys employed as public defenders are authorized to practice law outside of their assigned public defender cases in accordance with section 600.021.2, RSMo 2000.

(1) Moving from Private Practice to Public Defense. Attorneys newly hired by the Missouri State Public Defender System (MSPD) who have existing attorney-client obligations that cannot be resolved prior to the commencement of employment, may be authorized to continue providing representation in a limited number of outside matters after their public defender start date, if the director or the director's designee deems it to be in the best interest of MSPD to bring the attorney on staff prior to the resolution of all outside cases. If continued representation in outside cases is authorized, the following parameters must be met:

(A) The outside practice must not conflict with the attorney's work on MSPD matters and the attorney is expected to work the minimum number of required hours each pay period on MSPD matters or obtain supervisory approval to take annual or unpaid leave;

(B) Prior to beginning employment, the new hire and the director, or the director's designee, shall agree, in writing, upon the cases to be retained and the scope of the work that remains to be done on each. The attorney may continue to receive compensation for approved outside work based on a fee agreement entered into prior to employment with MSPD, but the attorney may not expand the scope of representation in any matter beyond that which was reported and approved at the time of hiring;

(C) The attorney shall make every effort, within the rules of professional responsibility, to bring all outside matters to a prompt conclusion and shall provide regular updates on the resolution of such matters to his or her supervisor;

(D) The attorney is not permitted to utilize MSPD time, resources, or staff assistance for non-MSPD cases; and

(E) If the attorney is required to appear in court on an outside matter, the attorney should make clear to the court that the attorney is appearing, not as a public defender, but in his or her private capacity as part of winding down the attorney's previous private practice.

(2) Moving from Contract Attorney to Public Defense. Attorneys newly hired by MSPD who have existing public defender cases taken on contract with MSPD may be authorized or required to continue providing representation in such contract cases past their public defender start date, within the following parameters:

(A) The contract cases in question do not create a conflict for the office the attorney is joining;

(B) Prior to beginning employment, the new hire and the director, or the director's designee, shall agree, in writing, upon the contract cases to be retained and the scope of the work remaining to be done on each;

(C) The attorney is expected to work the minimum number of required hours each pay period on non-contract MSPD matters or obtain supervisory approval to take annual or unpaid leave. If the attorney has already been compensated by MSPD for providing representation in these contract cases, the attorney shall not also count time spent working on contract cases as public defender time worked, except as set out in subsection (2)(D) below;

(D) In the event a contract case retained by a new hire turns out to be unusually complex for its case type or proceeds to trial or post-conviction evidentiary hearing after the attorney's start date as a public defender, the attorney shall either, at the discretion of the director or the director's designee: 1) receive the additional compensation generally paid to contract attorneys in such cases; or 2) have the additional time that is required to be spent on the case counted as MSPD work time; and

(E) Because the client in these contract cases is a client of MSPD, the attorney may utilize MSPD resources and staff to assist in the case.

(3) Unpaid Outside Representation. Attorneys currently employed by MSPD may seek permission from their immediate supervisors to provide unpaid representation in minor legal matters that will not interfere or conflict with their work on MSPD matters. If permission is granted, the following parameters must be met:

(A) The representation must be unpaid;

(B) Both the attorney's request and the supervisor's permission must be in writing and in compliance with guidelines established by the director or the director's designee;

(C) The attorney is expected to work the minimum number of required hours each pay period on MSPD matters or obtain supervisory approval to take annual or unpaid leave. Time spent on an outside matter may not be counted as hours worked;

(D) The attorney is not permitted to utilize MSPD resources or staff assistance for non-MSPD cases; and

(E) If the outside matter involves a court appearance, the attorney should make clear to the court that the attorney is appearing, not as a public defender, but in a private and unpaid capacity.

AUTHORITY: sections 600.017(10) and 600.021, RSMo 2000. Original rule filed Sept. 11, 2015.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Public Defender Commission, 1000 West Nifong, Building 7, Suite 100, Columbia, Missouri 65203. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety- (90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2000, and section 386.890.9, RSMo Supp. 2013, the commission amends a rule as follows:

4 CSR 240-20.065 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2015 (40 MoReg 526–538). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 1, 2015, and the commission held a public hearing on the proposed amendment on June 11, 2015. The commission received timely written comments from Earth Island Institute, d/b/a Renew Missouri; Wind on the Wires; The Missouri Industrial Energy Consumers (MIEC); The Office of the Public Counsel; Union Electric Company, d/b/a Ameren Missouri; The Missouri Solar Energy Industries Association (MOSIEA); and the staff of the commission. In addition, the following people offered comments at the hearing: P.J. Wilson and Andrew Linhares, on behalf of Renew Missouri; Sean Brady, on behalf of Wind on the Wires; Wendy Tatro, Matt Michels, and Wade Miller, on behalf of Union Electric Company, d/b/a Ameren Missouri; Larry Dority and Brad Lutz, on behalf of Kansas City Power and Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO); Edward Downey, on behalf of MIEC; Tim Opitz, on behalf of Public Counsel; Wendy Shoemyer, on behalf of MOSEIA; and Colleen Dale, Natelle Dietrich, Dan Beck, Claire Eubanks, and Mark Oligschlaeger, representing the staff.

COMMENT #1: MOSEIA, Public Counsel, and Renew Missouri ask that the definition of operational found in subsection (1)(G) be changed to prevent any delay by the utility in determining that the solar system is operational from causing the customer to receive a reduced rebate. KCP&L and GMO initially supported the language in the proposed amendment. But at the hearing, Ameren Missouri proposed compromise language that was accepted by KCP&L, GMO, Renew Missouri, and staff.
RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the compromise language proposed by Ameren Missouri and accepted by several commenters is appropriate. The commission will incorporate that language into the amendment.

COMMENT #2: Section (3) concerns REC ownership. Ameren Missouri asks the commission to substitute the term "electric utility" for "electric system" when the reference is intended to be to the electric utility and not the system. Staff agrees that the change should be made.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make that change.

COMMENT #3: Section (9) concerns interconnection applications and agreements between the electric utility and the customer seeking to install a solar generation unit. Ameren Missouri asks the commission to add a new subsection (9)(E) that would allow a utility that is no longer paying solar rebates to maintain tariffs that do not include solar rebate information. Renew Missouri opposes that comment because the question of which electric utilities must continue to pay solar rebates is subject to ongoing litigation. Staff does not support Ameren Missouri's proposal.
RESPONSE: The commission finds that Ameren Missouri's proposal to specifically allow certain electric utilities to remove information about solar rebates from their tariffs is inappropriate at this time. As Renew Missouri points out, issues surrounding the payment of solar rebates are the subject of ongoing litigation and the commission does not wish to entangle this amendment revision in those matters. The commission will not add the new subdivision proposed by Ameren Missouri.

COMMENT #4: Renew Missouri objects to a change proposed to the first page of the application/agreement. The new sentence would require the applicant to show the utility that it has obtained any permits or certificates that may be required by a local authority having jurisdiction before the interconnection can be made. Renew Missouri would let the utility approve interconnection without waiting for local authority approval to avoid concerns that local authorities may wait for utility approval while the utility waits for local approval, thus creating confusion about which entity should act first and delaying the approval of the project. KCP&L and GMO explain that they cannot set the meter to implement an interconnection until local approval is obtained. Staff opposes Renew Missouri's proposed change.
RESPONSE: Approval of local authorities is necessary before an electric utility can proceed with an interconnection and the language proposed by staff appropriately recognizes that requirement. The commission will not remove the language to which Renew Missouri objects.

COMMENT #5: Ameren Missouri suggests that a line be added to

section C of the application/agreement to contain the printed name of the installer in addition to the signature line. It proposes this addition, because signatures are often illegible. Staff supports that change.
RESPONSE AND EXPLANATION OF CHANGE: Ameren Missouri's proposed addition is appropriate and will be added to the application/agreement.

COMMENT #6: The revised application/agreement changes the words "customer charge" to "minimum bill" when describing the charges the utility may continue to collect from customers that generate more power than they use. Renew Missouri and Public Counsel object to the change, as "minimum bill" is broader than "customer charge" and they fear the utilities will try to create new charges to slap on self-generating customers. Ameren Missouri and KCP&L/GMO support the "minimum bill" language and point out that the statute already forbids the imposition of special charges on self-generating customers beyond those charges imposed on all customers. Staff indicates "minimum bill" is a more accurate descriptor then "customer charge" because the various electric utilities do not use the term "customer charge" consistently in their tariffs. (Ameren Missouri also points out that a reference to "customer charges" in subsection (7)(C), a section that the commission did not propose to amend, would also need to be changed to "minimum bill" if the term is changed in the application/agreement.)
RESPONSE AND EXPLANATION OF CHANGE: The comments indicate the terms "customer charge" and "minimum bill" are not consistently defined or applied by Missouri's electric utilities. As a result, neither is clearly more appropriately used in the amendment. The commission does not intend to change the meaning of "customer charge" as it is currently used in the application/agreement or the rule, so the term used should remain unchanged. The commission will not make the change included in the proposed amendment. The application/agreement will continue to refer to "customer charge".

COMMENT #7: Section I of the application/agreement deals with solar rebates. Ameren Missouri suggests the commission remove the phrase "the duration of its useful life" from the third paragraph, remove the phrase "for which they received a solar rebate from paragraph" from paragraph 10, and add a new phrase to that paragraph. Staff supports those changes.
RESPONSE AND EXPLANATION OF CHANGE: The changes proposed by Ameren Missouri are appropriate and will be made.

COMMENT #8: Renew Missouri suggests the commission remove the provision in the solar rebate declaration that would require the solar system to be situated in a location where at least eighty-five percent (85%) of the solar resource is available to the solar system, arguing that the requirement has no basis in the statute. Staff supports the eighty-five percent (85%) requirement.
RESPONSE: The eighty-five percent (85%) availability requirement is a reasonable provision designed to protect the value of the investment in solar energy funded by other ratepayers through payment of the solar rebates. The commission will not remove the provision challenged by Renew Missouri.

COMMENT #9: Renew Missouri would remove the paragraph that advises customers that the solar rebate program has a limited budget and that rebate payments may cease. It contends the utilities have an obligation to file with the commission for permission to cease paying solar rebates and should not be able to limit potential payments until they have obtained that permission. If the paragraph is not removed entirely, Renew Missouri proposes an alternative paragraph that would be used during the limited time after the utility has filed its sixty- (60-) day notice of having reached the rebate payment limits.
RESPONSE: The challenged paragraph appropriately provides necessary information to the prospective recipient of a solar rebate. The commission will not remove the paragraph.

4 CSR 240-20.065 Net Metering

(1) Definitions.

(G) Operational means all of the major components of the on-site system have been purchased and installed on the customer-generator's premises and the production of rated net electrical generation has been measured by the electric utility. If a customer has satisfied all of the System Completion Requirements by June 30 of indicated years, but the electric utility is not able to complete all of the company's steps needed to establish an Operational Date on or before June 30, the rebate rate will be determined as though the Operational Date was June 30. If it is subsequently determined that the customer of the system did not satisfy all Completion Requirements required of the customer on or before June 30, the rebate rate will be determined based on the Operational Date.

(3) REC Ownership. RECs associated with customer-generated net-metered renewable energy resources shall be owned by the customer-generator; however, as a condition of receiving solar rebates for systems operational after August 28, 2013, customers transfer to the electric utility all right, title, and interest in and to the RECs associated with the new or expanded solar electric system that qualified the customer for the solar rebate for a period of ten (10) years from the date the electric utility confirmed the solar electric system was installed and operational.

INTERCONNECTION APPLICATION/AGREEMENT FOR NET METERING SYSTEMS WITH CAPACITY OF ONE HUNDRED KILOWATTS (100 kW) OR LESS

[Utility Name and Mailing Address]

For Customers Applying for Interconnection:

If you are interested in applying for interconnection to [Utility Name]'s electrical system, you should first contact [Utility Name] and ask for information related to interconnection of parallel generation equipment to [Utility Name]'s system and you should understand this information before proceeding with this Application.

If you wish to apply for interconnection to [Utility Name]'s electrical system, please complete sections A, B, C, and D, and attach the plans and specifications, including, but not limited to, describing the net metering, parallel generation, and interconnection facilities (hereinafter collectively referred to as the "Customer-Generator's System") and submit them to [Utility Name] at the address above. The company will provide notice of approval or denial within thirty (30) days of receipt by [Utility Name] for Customer-Generators of ten kilowatts (10 kW) or less and within ninety (90) days of receipt by [Utility Name] for Customer-Generators of greater than ten kilowatts (10 kW). If this Application is denied, you will be provided with the reason(s) for the denial. If this Application is approved and signed by both you and [Utility Name], it shall become a binding contract and shall govern your relationship with [Utility Name].

For Customers Who Have Received Approval of Customer-Generator System Plans and Specifications:

After receiving approval of your Application, it will be necessary to construct the Customer-Generator System in compliance with the plans and specifications described in the Application, complete sections E and F of this Application, and forward this Application to [Utility Name] for review and completion of section G at the address above. Prior to the interconnection of the qualified generation unit to [Utility Name] system, the Customer-Generator will furnish [Utility Name] a certification from a qualified professional electrician or engineer that the installation meets the plans and specification described in the application. If a local Authority Having Jurisdiction (AHJ) requires permits or certifications for construction or operation of the qualified generation unit, a customer generator must show the permit number and approval certification to the [Utility Name] prior to interconnection. If the application for interconnection is approved by [Utility Name] and the Customer-Generator does not complete the interconnection within one (1) year after receipt of notice of the approval, the approval shall expire and the Customer-Generator shall be responsible for filing a new application.

Within 21 days of when the customer-generator completes submission of all required post construction documentation, including sections E&F, other supporting documentation and local AHJ inspection approval (if applicable) to the electric utility, the electric utility will make any inspection of the customer-generators interconnection equipment or system it deems necessary and notify the customer-generator:

1. That the net meter has been set and parallel operation by customer-generator is permitted; or

2. That the inspection identified no deficiencies and the net meter installation is pending; or
3. That the inspection identified no deficiencies and the timeframe anticipated for the electric utility to complete all required system or service upgrades and install the meter; or
4. Of all deficiencies identified during the inspection that need to be corrected by the customer-generator before parallel operation will be permitted; or
5. Of any other issue(s), requirement(s), or condition(s) impacting the installation of the net meter or the parallel operation of the system.

For Customers Who Are Installing Solar Systems:

Customer-Generators who are Missouri electric utility retail account holders will receive a solar rebate, if available, based on the capacity stated in the application, or the installed capacity of the Customer-Generator System if it is lower, if the following requirements are met:

a. The [Utility Name] must have confirmed the Customer-Generator's System is operational; and
b. Sections H and I of this Application must be completed.

The amount of the rebate will be based on the system capacity measured in direct current. The rebate will be based on the schedule below up to a maximum of 25,000 watts (25kW).

$2.00 per watt for systems operational on or before June 30, 2014;
$1.50 per watt for systems operational between July 1, 2014 and June 30, 2015;
$1.00 per watt for systems operational between July 1, 2015 and June 30, 2016;
$0.50 per watt for systems operational between July 1, 2016 and June 30, 2019;
$0.25 per watt for systems operational between July 1, 2019 and June 30, 2020;
$0.00 per watt for systems operational after June 30, 2020.

For Customers Who Are Assuming Ownership or Operational Control of an Existing Customer-Generator System:

If no changes are being made to the existing Customer-Generator System, complete sections A, D, and F of this Application/Agreement and forward to [Utility Name] at the address above. [Utility Name] will review the new Application/Agreement and shall approve such, within fifteen (15) days of receipt by [Utility Name] if the new Customer-Generator has satisfactorily completed Application/Agreement, and no changes are being proposed to the existing Customer-Generator System. There are no fees or charges for the Customer-Generator who is assuming ownership or operational control of an existing Customer-Generator System if no modifications are being proposed to that system.

A. Customer-Generator's Information
Name on [Utility Name] Electric Account:
_____
Service/Street Address: _____

City: _____ State: _____ Zip Code: _____

Mailing Address (if different from above):
_____
City: _____ State: _____ Zip Code: _____

E-mail address (if available):
_____

Electric Account Holder Contact Person:
_____

Daytime Phone: _____ Fax: _____
Email: _____

Emergency Contact
Phone:_____
[Utility Name] Account No. (from Utility Bill):
_____
If account has multiple meters, provide the meter number to which generation will be connected: _____

[Utility Name] Account No. (from Utility Bill): [Shall be inserted at the top of each page.]

B. Customer-Generator's System Information
Manufacturer Name Plate Power Rating: _____ kW AC or DC (circle one)
[Voltage: _____ *Volts]*
System Type: __Wind __Fuel Cell __Solar Thermal __Photovoltaic __Hydroelectric __Other (describe)
_____
_____
Inverter/Interconnection Equipment Manufacturer:
_____
Inverter/Interconnection Equipment Model No.:
_____
Outdoor Manual/Utility Accessible & Lockable Disconnect Switch Distance from Meter:
_____
Certify that the disconnect switch will be located adjacent to the Customer-Generator's electric service meter or explain where and why an alternative location of disconnect switch is being requested:
_____
_____

Existing Electrical Service Capacity: _____ Amperes Voltage: _____ Volts
Service Character: __ Single Phase __ Three Phase
Total capacity of existing Customer-Generator System (if applicable):_____kW

System Plans, Specifications, and Wiring Diagram must be attached for a valid application.

C. Installation Information/Hardware and Installation Compliance
Company Installing System: _____
Contact Person of Company Installing System: _____ Phone Number:_____
Contractor's License No. (if applicable):
_____
Approximate Installation Date:
_____
Mailing Address:
_____
City: _____ State: _____
Zip Code: _____
Daytime Phone: _____ Fax: _____
Email: _____
Person or Agency Who Will Inspect/Certify Installation:
_____
The Customer-Generator's proposed System hardware complies with all applicable National Electrical Safety Code (NESC), National Electrical Code (NEC), Institute of Electrical and Electronics Engineers (IEEE), and Underwriters Laboratories (UL) requirements for electrical equipment and their installation. As applicable to system type, these requirements include, but are not limited to, UL 1703, UL 1741 and IEEE 1547. The proposed installation complies with all applicable local electrical codes and all reasonable safety requirements of [Utility Name]. The proposed system has a lockable, visible AC disconnect device, accessible at all times to [Utility Name] personnel and switch is located adjacent to the Customer-Generator's electric service meter (except in cases where the Company has approved an alternate location). The system is only required to include one lockable, visible disconnect device, accessible to [Utility Name]. If the interconnection equipment is equipped with a visible, lockable, and accessible disconnect, no redundant device is needed to meet this requirement. The Customer-Generator's proposed system has functioning controls to prevent voltage flicker, DC injection, overvoltage, undervoltage, overfrequency, underfrequency, and overcurrent, and to provide for system synchronization to [Utility Name]'s electrical system. The proposed system does have an anti-islanding function that prevents the generator from continuing to supply power when [Utility Name]'s electric system is not energized or operating normally. If the proposed system is designed to provide uninterruptible power to critical loads, either through energy storage or back-up generation, the proposed system includes a parallel blocking scheme for this backup source that prevents any backflow of power to [Utility Name]'s electrical system when the electrical system is not energized or not operating normally.

Signed (Installer): Printed Name_____
Signature:_____
Date:_____

D. Additional Terms and Conditions

In addition to abiding by [Utility Name]'s other applicable rules and regulations, the Customer-Generator understands and agrees to the following specific terms and conditions:

1) Operation/Disconnection

If it appears to [Utility Name], at any time, in the reasonable exercise of its judgment, that operation of the Customer-Generator's System is adversely affecting safety, power quality, or reliability of [Utility Name]'s electrical system, [Utility Name] may immediately disconnect and lock-out the Customer-Generator's System from [Utility Name]'s electrical system. The Customer-Generator shall permit [Utility Name]'s employees and inspectors reasonable access to inspect, test, and examine the Customer-Generator's System.

2) Liability

Liability insurance is not required for Customer-Generators of ten kilowatts (10 kW) or less. For generators greater that ten kilowatts (10 kW), the Customer-Generator agrees to carry no less than one hundred thousand dollars ($100,000) of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation of the Customer-Generator's System. Insurance may be in the form of an existing policy or an endorsement on an existing policy. Customer-Generators, including those whose systems are ten kilowatts (10 kW) or less, may have legal liabilities not covered under their existing insurance policy in the event the Customer-Generator's negligence or other wrongful conduct causes personal injury (including death), damage to property, or other actions and claims.

3) Metering and Distribution Costs

A Customer-Generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the Customer-Generator. If the Customer-Generator's existing meter equipment does not meet these requirements or if it is necessary for [Utility Name] to install additional distribution equipment to accommodate the Customer-Generator's facility, the Customer-Generator shall reimburse [Utility Name] for the costs to purchase and install the necessary additional equipment. At the request of the Customer-Generator, such costs may be initially paid for by [Utility Name], and any amount up to the total costs and a reasonable interest charge may be recovered from the Customer-Generator over the course of up to twelve (12) billing cycles. Any subsequent meter testing, maintenance, or meter equipment change necessitated by the Customer-Generator shall be paid for by the Customer-Generator.

4) Ownership of Renewable Energy Credits or Renewable Energy Certificates (RECs)

RECs created through the generation of electricity by the Customer-Owner are owned by the Customer-Generator; however, if the Customer-Generator receives a solar rebate, the Customer-Generator transfers to the [Utility Name] all right, title, and interest in and to the RECs associated with the new or expanded solar electric system that qualified the Customer-Generator for the solar rebate for a period of ten (10) years from the date the electric utility confirms the solar electric system is installed and operational.

5) Energy Pricing and Billing

The net electric energy delivered to the Customer-Generator shall be billed in accordance with the Utility's Applicable Rate Schedules [Utility's Applicable Rate Schedules]. The value of the net electric energy delivered by the Customer-Generator to [Utility Name] shall be credited in accordance with the net metering rate schedule(s) [Utility's Applicable Rate Schedules]. The Customer-Generator shall be responsible for all other bill components charged to similarly situated customers.

Net electrical energy measurement shall be calculated in the following manner:

(a) For a Customer-Generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the Customer-Generator's consumption and production of electricity;

(b) If the electricity supplied by the supplier exceeds the electricity generated by the Customer-Generator during a billing period, the Customer-Generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(c) If the electricity generated by the Customer-Generator exceeds the electricity supplied by the supplier during a billing period, the Customer-Generator shall be billed for the appropriate customer charges as specified by the applicable Customer-Generator rate schedule for that billing period and shall be credited an amount for the excess kilowatt-hours generated during the billing period at the net metering rate identified in [Utility Name]'s tariff filed at the Public Service Commission, with this credit applied to the following billing period; and

(d) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve (12) months after their issuance, or when the Customer-Generator disconnects service or terminates the net metering relationship with the supplier.

6) Terms and Termination Rights

This Agreement becomes effective when signed by both the Customer-Generator and [Utility Name], and shall continue in effect until terminated. After fulfillment of any applicable initial tariff or rate schedule term, the Customer-Generator may terminate this Agreement at any time by giving [Utility Name] at least thirty (30) days prior written notice. In such event, the Customer-Generator shall, no later than the date of termination of Agreement, completely disconnect the Customer-Generator's System from parallel

operation with [Utility Name]'s system. Either party may terminate this Agreement by giving the other party at least thirty (30) days prior written notice that the other party is in default of any of the terms and conditions of this Agreement, so long as the notice specifies the basis for termination, and there is an opportunity to cure the default. This Agreement may also be terminated at any time by mutual agreement of the Customer-Generator and [Utility Name]. This agreement may also be terminated, by approval of the commission, if there is a change in statute that is determined to be applicable to this contract and necessitates its termination.

7) Transfer of Ownership

If operational control of the Customer-Generator's System transfers to any other party than the Customer-Generator, a new Application/Agreement must be completed by the person or persons taking over operational control of the existing Customer-Generator System. [Utility Name] shall be notified no less than thirty (30) days before the Customer-Generator anticipates transfer of operational control of the Customer-Generator's System. The person or persons taking over operational control of Customer-Generator's System must file a new Application/Agreement, and must receive authorization from [Utility Name], before the existing Customer-Generator System can remain interconnected with [Utility Name]'s electrical system. The new Application/Agreement will only need to be completed to the extent necessary to affirm that the new person or persons having operational control of the existing Customer-Generator System completely understand the provisions of this Application/Agreement and agree to them. If no changes are being made to the Customer-Generator's System, completing sections A, D, and F of this Application/Agreement will satisfy this requirement. If no changes are being proposed to the Customer-Generator System, [Utility Name] will assess no charges or fees for this transfer. [Utility Name] will review the new Application/Agreement and shall approve such, within fifteen (15) days if the new Customer-Generator has satisfactorily completed the Application/Agreement, and no changes are being proposed to the existing Customer-Generator System. [Utility Name] will then complete section G and forward a copy of the completed Application/Agreement back to the new Customer-Generator, thereby notifying the new Customer-Generator that the new Customer-Generator is authorized to operate the existing Customer-Generator System in parallel with [Utility Name]'s electrical system. If any changes are planned to be made to the existing Customer-Generator System that in any way may degrade or significantly alter that System's output characteristics, then the Customer-Generator shall submit to [Utility Name] a new Application/Agreement for the entire Customer-Generator System and all portions of the Application/Agreement must be completed.

8) Dispute Resolution

If any disagreements between the Customer-Generator and [Utility Name] arise that cannot be resolved through normal negotiations between them, the disagreements may be brought to the Missouri Public Service Commission by either party, through an informal or formal complaint. Procedures for filing and processing these complaints are described in 4 CSR 240-2.070. The complaint procedures described in 4 CSR 240-2.070

apply only to retail electric power suppliers to the extent that they are regulated by the Missouri Public Service Commission.

9) Testing Requirement

IEEE 1547 requires periodic testing of all interconnection related protective functions. The Customer-Generator must, at least once every year, conduct a test to confirm that the Customer-Generator's net metering unit automatically ceases to energize the output (interconnection equipment output voltage goes to zero) within two (2) seconds of being disconnected from [Utility Name]'s electrical system. Disconnecting the net metering unit from [Utility Name]'s electrical system at the visible disconnect switch and measuring the time required for the unit to cease to energize the output shall satisfy this test. The Customer-Generator shall maintain a record of the results of these tests and, upon request by [Utility Name], shall provide a copy of the test results to [Utility Name]. If the Customer-Generator is unable to provide a copy of the test results upon request, [Utility Name] shall notify the Customer-Generator by mail that Customer-Generator has thirty (30) days from the date the Customer-Generator receives the request to provide to [Utility Name], the results of a test. If the Customer-Generator's equipment ever fails this test, the Customer-Generator shall immediately disconnect the Customer-Generator's System from [Utility Name]'s system. If the Customer-Generator does not provide results of a test to [Utility Name] within thirty (30) days of receiving a request from [Utility Name] or the results of the test provided to [Utility Name] show that the Customer-Generator's net metering unit is not functioning correctly, [Utility Name] may immediately disconnect the Customer-Generator's System from [Utility Name]'s system. The Customer-Generator's System shall not be reconnected to [Utility Name]'s electrical system by the Customer-Generator until the Customer-Generator's System is repaired and operating in a normal and safe manner.

I have read, understand, and accept the provisions of section D, subsections 1 through 9 of this Application/Agreement.

Signed (Customer-Generator): Printed Name_____
Signature:_____
Date: _____
Must be signature of [Utility Name] account holder (customer)

E. Electrical Inspection
If a local Authority Having Jurisdiction (AHJ) governs permitting/inspection of project:
Authority Having Jurisdiction (AHJ):

_____
Permit Number: _____

Applicable to all installations:
The Customer-Generator System referenced above satisfies all requirements noted in section C.
Inspector Name
(print):_____

Inspector Certification: Licensed Engineer in Missouri ___ Licensed Electrician in Missouri ___
License
No._____

Signed (Inspector):
_____
Date: _____

F. Customer-Generator Acknowledgement

I am aware of the Customer-Generator System installed on my premises and I have been given warranty information and/or an operational manual for that system. Also, I have been provided with a copy of [Utility Name]'s parallel generation tariff or rate schedule (as applicable) and interconnection requirements. I am familiar with the operation of the Customer-Generator System.

I agree to abide by the terms of this Application/Agreement and I agree to operate and maintain the Customer-Generator System in accordance with the manufacturer's recommended practices as well as [Utility Name]'s interconnection standards. If, at any time and for any reason, I believe that the Customer-Generator System is operating in an unusual manner that may result in any disturbances on [Utility Name]'s electrical system, I shall disconnect the Customer-Generator System and not reconnect it to [Utility Name]'s electrical system until the Customer-Generator System is operating normally after repair or inspection. Further, I agree to notify [Utility Name] no less than thirty (30) days prior to modification of the components or design of the Customer-Generator System that in any way may degrade or significantly alter that system's output characteristics. I acknowledge that any such modifications will require submission of a new Application/Agreement to [Utility Name].

I agree not to operate the Customer-Generator System in parallel with [Utility Name]'s electrical system until this Application/Agreement has been approved by [Utility Name].

System Installation Date: _____

Printed name (Customer-Generator):
_____

Signed (Customer-Generator): _____
Date:_____

G. Utility Application/Agreement Approval (*completed by* [Utility Name])

[Utility Name] does not, by approval of this Application/Agreement, assume any responsibility or liability for damage to property or physical injury to persons due to malfunction of the Customer-Generator's System or the Customer-Generator's negligence.

This Application is approved by [Utility Name] on this _____day of _____(month), _____(year).

[Utility Name] Representative Name (print):

_____

Signed [Utility Name] Representative:

_____

H. Solar Rebate (For Solar Installations only)

Solar Module Manufacturer:_____ Inverter Rating: _____kW

Solar Module Model No.:_____ Number of Modules/Panel: _____

Module rating: _____DC Watts System rating (sum of solar panels):____kW

Module Warranty: _____ years (circle on spec sheet)

Inverter Warranty: _____ years (circle on spec sheet)

Location of modules: ____Roof ___Ground Installation type: ____ Fixed ___Ballast

Solar system must be permanently installed on the applicant's premises for a valid application

Required documents to receive solar rebate to be attached OR provided before [Utility Name] authorizes the rebate payment:

Copies of detail receipts/invoices with purchase date circled
Copies of detail spec sheets on each component
Copies of proof of warranty sheet (minimum of 10 year warranty)
Photo(s) of completed system
Completed Taxpayer Information Form

I. Solar Rebate Declaration (For Solar Installations only)

I understand that the complete terms and conditions of the solar rebate program are included in [Utility Name] [solar rebate tariff name].

I understand that this program has a limited budget, and that application will be accepted on a first-come, first-served basis, while funds are available. It is possible that I may be notified I have been placed on a waiting list for the next year's rebate program if funds run out for the current year. This program may be modified or discontinued at any time without notice from [Utility Name].

I understand that the solar system must be permanently installed and remain in place on premises for a minimum of 10 years and the system shall be situated in a location where a minimum of eighty-five percent (85%) of the solar resource is available to the solar system.

I understand the equipment must be new when installed, commercially available, and carry a minimum 10 year warranty.

I understand a rebate may be available from [Utility Name] in the amount of**:**

$2.00 per watt for systems operational on or before June 30, 2014;
$1.50 per watt for systems operational between July 1, 2014 and June 30, 2015;
$1.00 per watt for systems operational between July 1, 2015 and June 30, 2016;
$0.50 per watt for systems operational between July 1, 2016 and June 30, 2019;
$0.25 per watt for systems operational between July 1, 2019 and June 30, 2020;

$0.00 per watt for systems operational after June 30, 2020.

I understand an electric utility may, through its tariff, require applications for solar rebates to be submitted up to one hundred eighty-two (182) days prior to the applicable June 30 operational date for the solar rebate.

I understand that a maximum of 25 kilowatts of new or expanded system capacity will be eligible for a rebate.

I understand the DC wattage rating provided by the original manufacturer and as noted in section H will be used to determine rebate amount.

I understand I may receive an IRS Form related to my rebate amount. (Please consult your tax advisor with any questions.)

I understand that as a condition of receiving a solar rebate, I am transferring to [Utility Name] all right, title, and interest in and to the solar renewable energy credits (SRECs) associated with the new or expanded system for a period of ten (10) years from the date [Utility Name] confirmed that the system was installed and operational, and during this period, I may not claim credit for the SRECs under any environmental program or transfer or sell the SRECs to any other party.

The undersigned warrants, certifies, and represents that the information provided in this form is true and correct to the best of my knowledge; and the installation meets all Missouri Net Metering and Solar Electric Rebate program requirements.

_____	_____
Applicant's Signature	Installer's Signature
_____	_____
Print Solar Rebate Applicant's Name	Print Installer's Name

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 393.1030, RSMo Supp. 2013, and sections 386.040 and 386.250, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2015 (40 MoReg 538–554). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 1, 2015, and the commission held a public hearing on the proposed amendment on June 11, 2015. The commission received timely written comments from Earth Island Institute, d/b/a Renew Missouri; Wind on the Wires; The Missouri Industrial Energy Consumers (MIEC); The Office of the Public Counsel; Union Electric Company, d/b/a Ameren Missouri; The Missouri Solar Energy Industries Association (MOSIEA); and the staff of the commission. In addition, the following people offered comments at the hearing: P.J. Wilson and Andrew Linhares, on behalf of Renew Missouri; Sean Brady, on behalf of Wind on the Wires; Wendy Tatro, Matt Michels, and Wade Miller, on behalf of Union Electric Company, d/b/a Ameren Missouri; Larry Dority and Brad Lutz, on behalf of Kansas City Power and Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO); Edward Downey, on behalf of MIEC; Tim Opitz, on behalf of Public Counsel; Wendy Shoemyer, on behalf of MOSEIA; and Colleen Dale, Natelle Dietrich, Dan Beck, Claire Eubanks, and Mark Oligschlaeger, representing the staff.

COMMENT #1: MOSEIA and Renew Missouri ask that the definition of operational found in subsections (1)(J) and (4)(M) be changed to prevent any delay by the utility in determining that the solar system is operational from causing the customer to receive a reduced rebate. KCP&L and GMO initially supported the language in the proposed amendment. But at the hearing, Ameren Missouri proposed compromise language that was accepted by KCP&L, GMO, Renew Missouri, and staff.
RESPONSE AND EXPLANATION OF CHANGE: The compromise language proposed by Ameren Missouri at the hearing is appropriate and will be added to the definition of operational.

COMMENT #2: Renew Missouri opposes the proposed change in the definition of renewable energy resource found in subsection (1)(N) and paragraph (2)(A)1., contending that the statute makes it clear that "renewable energy resource" refers to energy, not to a type of generating unit. So, the definition should continue to refer to "electric energy produced from", rather than "when used to produce" energy. No other commenter addressed this matter.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Renew Missouri's comment and will not change that aspect of the definition of renewable energy resource.

COMMENT #3: When the Commission originally promulgated this rule, the legislature passed a resolution that blocked the geographic sourcing provisions of subsection (2)(A) and paragraph (2)(B)2. The rule as published in the *Code* shows those numbers as "reserved". The proposed amendment would remove the "reserved" designation and renumber the surrounding subsections. Renew Missouri points out that the legislature's blocking of the geographic sourcing provisions is still subject to ongoing litigation and asks that the "reserved" designation remain in the rule. Staff replied that the "reserved" designation is unnecessary as the rules can be renumbered if any future changes to the rule result from that litigation.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will leave the "reserved" designation in place. That will require the proposed amendment's renumbering of the subsequent sections to be reversed.

COMMENT #4: Subsection (2)(B) would expand the one percent (1%) retail compliance cap to include "renewable mandates required by law", including RES portfolio requirements. Renew Missouri and Wind on the Wires object that the statute requires that only the RES requirements established in the statute can be used to calculate the one percent (1%) cap, and would remove the other renewable mandates language from the rule.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Renew Missouri and Wind on the Wires' comment and will modify the subsection accordingly.

COMMENT #5: Ameren Missouri would change the language of subsection (2)(C) that says solar energy shall be two percent (2%) of the renewable energy resources to be no less than two percent (2%). The proposed change would recognize that the two percent (2%) requirement is a floor, not a ceiling. Public Counsel opposes that change to the extent it would justify a utility paying more for solar than is economic. Renew Missouri and staff support Ameren Missouri's comment.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Ameren Missouri's comment. The two percent (2%) requirement is a floor, not a ceiling in that the utility may choose to obtain more than two percent (2%) of its power needs from solar energy. Public Counsel is correct that a utility is not justified in spending more for solar power than is economic, but making the proposed change in the language of the rule does not change that fundamental limitation.

COMMENT #6: Ameren Missouri would substitute the word "acquired" for "purchased" in subsection (4)(J)'s reference to SRECs because not all of the SRECs a utility acquires are purchased. Staff supports that change.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will substitute "acquired" for "purchased" in the subsection.

COMMENT #7: Under subsection (4)(L), Ameren Missouri and Public Counsel would make the twelve- (12-) month period for the utility to confirm that the customer-generator's solar system is operational begin to run when the customer receives notice of the approval of its application from the utility, rather than when the customer applies for the rebate. Staff supports that change.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #8: Regarding subsection (4)(M), Renew Missouri proposed alternative language to clarify that utility delay in determining that a customer-generator's solar system is operational does not reduce the solar rebate amount available for the customer. Ameren Missouri proposed compromise language that was accepted by KCP&L/GMO, Renew Missouri, and staff.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #9: Ameren Missouri would change the language of subsection (4)(N) to make it clear that no single program, such as the solar rebate program, will cause the utility to exceed the total retail

rate impact, rather it would be a combination of all programs. Staff supports that change.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #10: Ameren Missouri would modify subsection (4)(O) to eliminate the requirement to include information about the solar rebate application and review process on the electric utility's website when the utility has suspended payment of solar rebates pursuant to a commission order. Staff supports that change, but Renew Missouri and MOSEIA support the proposed tariff provision requirement and oppose Ameren Missouri's modification.
RESPONSE: The commission agrees with Renew Missouri and MOSEIA. Even if an electric utility has suspended payment of solar rebates, it is still appropriate to include information about solar rebates on the website, including, of course, the fact that payment of such rebates has been suspended. The commission will not make the modification suggested by Ameren Missouri.

COMMENT #11: Ameren Missouri would add a new subsection (4)(P) to clarify that the rule does not affect the commission's approval of the stipulations and agreements in ET-2014-0059, ET-2014-0071, and ET-2014-0085, which are the case files regarding whether the electric utilities have reached the cap on payment of further solar rebates. Renew Missouri and MOSEIA oppose Ameren Missouri's proposal as litigation regarding the future payment of solar rebates is still ongoing.
RESPONSE: Ameren Missouri is correct that nothing in these rules affects the commission's approval of the stipulations and agreements in the listed cases. But there is no need to "clarify" the rule by listing those agreements. The commission will not add the subsection suggested by Ameren Missouri.

COMMENT #12: MOSIEA and Renew Missouri would add a provision to section (5) the Retail Rate Impact (RRI) section to require each utility to calculate and file the RRI each year as part of its annual compliance report. They do not, however, suggest specific language, nor do they indicate exactly where in the section it should be inserted. KCP&L/GMO contend they already calculate the RRI and argue that no specific filing requirement is needed.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with MOSIEA and Renew Missouri's comment. The utilities already calculate the RRI for other purposes and it would not be unduly burdensome for them to make and file those calculations as part of its annual compliance report. The commission will add that requirement as subsection (5)(J).

COMMENT #13: Ameren Missouri, MIEC, and Renew Missouri would clarify subsection (5)(A) to make it clear that the RRI calculation would exclude resources owned or under contract before the date of the original rule, not the current revision. That original effective date would be September 30, 2010. Public Counsel supports that clarification.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #14: Ameren Missouri proposes to change the word "through" to "based on" within subsection (5)(A).
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the requested change.

COMMENT #15: Ameren Missouri notes that subsection (5)(B) is quite long and suggests that it be broken into paragraphs.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the subsection becomes more understandable when broken into paragraphs. The suggested change will be made.

COMMENT #16: MOSIEA and Renew Missouri suggest the commission clarify subsection (5)(B) to make it clear that all avoided costs are to be used in the RRI calculation, not just the avoided cost of fuel. Ameren Missouri suggests the commission expressly limit avoided costs to those that would be included in the utility's revenue requirement for setting rates, thus eliminating externalities, such as medical costs for treating asthma resulting from burning coal, etc. Staff supports Ameren Missouri's language, and MOSEIA and Renew Missouri indicated it would be acceptable to them as well.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will clarify the amendment to make it clear that all avoided costs, not just the avoided cost of fuel are to be used in the RRI calculation. The commission will adopt the language proposed by Ameren Missouri. With the subsection having been broken into paragraphs, the revised language is in paragraph (5)(B)4.

COMMENT #17: MOSIEA and Renew Missouri suggest the commission modify subsection (5)(B) to specify that the utility's calculation of RRI must include the full risk of environmental regulation, not just greenhouse gas regulation costs. Ameren Missouri agrees and offers specific language for that purpose.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will adopt the language offered by Ameren Missouri. With the subsection having been broken into paragraphs, the revised language is in paragraph (5)(B)4.

COMMENT #18: Renew Missouri strongly supports the proposed amendment's deletion of the last sentence of subsection (5)(B). The current rule limits when the utility must conduct the rate impact calculation.
RESPONSE: The commission thanks Renew Missouri for its comment and will leave the amendment's deletion of that sentence unchanged.

COMMENT #19: Public Counsel and MIEC are concerned that the proposed language of subsection (5)(B) would allow for the double-subtraction of fuel and environmental compliance costs in the calculation of RRI. MIEC proposed alternative language, which staff accepts.
RESPONSE AND EXPLANATION OF CHANGE: The additional sentence proposed by MIEC will serve to clarify what is already the intent of the amendment. The commission will add the sentence to the amendment.

COMMENT #20: Wind on the Wires asks the commission to adopt a template spreadsheet for performing the RRI described in subsection (5)(B). It asserts that its spreadsheet would make the RRI uniform, open, and transparent for all the electric utilities. It also offers alternative language to clarify the components of the non-renewable generation and purchased power resource portfolio. Staff does not support Wind on the Wires' proposal, and Ameren Missouri offered specific criticism of that proposal. In summary, Ameren Missouri contends the proposal would effectively eliminate the one percent (1%) rate impact cap.
RESPONSE: The purpose of the RRI calculation is to ensure that the electric utility's compliance with the renewable energy standards does not result in increases to retail rates of greater than one percent (1%), as required by the statute. Under the existing rule, that one percent (1%) impact is averaged over a forward-looking ten- (10-) year period that accounts for the costs of existing renewable resources and reasonable estimates of additional renewable resources needed to comply with the RES Portfolio Requirement over that ten- (10-) year period. In essence, the cost of using renewable energy to comply with the RES Portfolio Requirement is compared to the cost the utility would incur to supply that energy using non-renewable sources.

Wind on the Wires does not explain in any detail how the proposed template would work. But Ameren Missouri's response raises concerns that Wind on the Wires' proposal would require the inclusion

in the non-renewable portfolio of additional non-renewable energy even when that additional energy is not needed to serve customers, thereby ensuring that the one percent (1%) limitation would never be determined to have been reached.

Under the circumstances, the commission will retain the RRI calculation methodology created by the members of its expert staff and will not incorporate the spreadsheet proposed by Wind on the Wires.

COMMENT #21: In subsection (5)(D), MOSIEA suggests the commission add a requirement that all RECs used for compliance be associated with electricity sold to Missouri customers.
RESPONSE: The geographic sourcing requirement that MOSIEA was rejected from this amendment by joint resolution of the legislature when this rule was first promulgated. The commission will not revisit that issue and will not incorporate the language proposed by MOSIEA.

COMMENT #22: Renew Missouri asks the commission to add the phrase "in accordance with this subsection" to the new sentence at the end of subsection (5)(D) to modify the phrase "when adjusting downward the proportion of renewable energy resources" to make it clear that there is no other occasion for which the amount of renewable resources could be adjusted downward.
RESPONSE AND EXPLANATION OF CHANGE: The additional phrase proposed by Renew Missouri is not opposed by any other comment and is appropriate. The commission will add the phrase to the amendment.

COMMENT #23: Wind on the Wires is concerned that subsection (5)(E) seems to be missing from the rule in that it is neither included as existing language, nor is it stricken from the rule.
RESPONSE: The secretary of state's publication standards require that sections that are not amended or renumbered are not published in the *Missouri Register* as part of the proposed amendment. No changes were proposed to subsection (5)(E) so it was not published. It does, however, remain part of the rule.

COMMENT #24: Renew Missouri asks the commission to add a sentence to paragraph (5)(F)2. indicating that the commission will not suspend solar rebate payments unless it expressly finds that the electric utility has accurately calculated the retail rate impact in the manner prescribed by the regulation.
RESPONSE AND EXPLANATION OF CHANGE:The commission agrees with Renew Missouri's comment and will add the requested sentence.

COMMENT #25: In subsection (5)(G), the proposed amendment creates a "carry-forward" component to be incorporated in the RRI calculation. Staff's written comment extensively explains why the "carry-forward" is needed. Because the one percent (1%) cap is calculated on a going forward basis, past expenditures are currently not included in the calculation. Thus, theoretically, a very large expenditure on renewable energy this year would not affect the calculation of a future ten-year average for purposes of applying the one percent (1%) cap. As a result, without a "carry-forward" component, the actual ten-year average retail rate impact could exceed the one percent (1%) cap. Public Counsel supports staff's proposal. Wind on the Wires opposes the creation of the "carry-forward" component and proposes an alternative tied to its alternate retail rate impact methodology proposed in connection with subsection (5)(B). Ameren Missouri recommends the commission tweak the proposed language by including and defining the term "cumulative carry-forward amount", and would define a starting point for the calculation of the "carry-forward" amount at January 1, 2013 to capture the surge in solar rebate payments. KCP&L and GMO support that position. Renew Missouri would replace the phrase "one percent (1%) of the revenue requirement for that year" with "one percent (1%) cap, as defined in section (5)(B)". Staff insists on a January 1, 2015 start date for the "carry-forward" calculation to avoid retroactive rulemaking concerns.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with its staff that a "carry-forward" component is needed. The adjustments proposed by Wind on the Wires are tied to the alternative language it proposed in Comment #20, which the commission rejected for reasons explained in the response to that comment. The commission will again reject Wind on the Wires' proposal. The language adjustments proposed by Renew Missouri and Ameren Missouri are also appropriate, and will be adopted, except that the commission will start the "carry-forward" calculation with the current period beginning on January 1, 2015 as proposed by staff.

COMMENT #26: With regard to subsection (5)(G), MIEC and Public Counsel are concerned that reduced billing units sold because of distributed generation, such as customer-owned solar power systems, replacing power sold by the utility will result in a greater than one percent (1%) rate impact. They would add language to this subsection to require an adjustment to recognize the effect of the difference. Ameren Missouri proposes to adjust subsection (5)(B) to accomplish that purpose. Staff does not believe that the proposed language is needed.
RESPONSE: The commission does not believe that the reduced billing units language is necessary at this time as customer-owned solar power systems and other distributed generation systems do not currently have a large impact on the sales of any Missouri electric utility. The proposed language will not be added to the amendment.

COMMENT #27: In subsection (5)(I), Ameren Missouri asks the commission to modify subsection (5)(I) to clarify that the retail rate impact calculation is as provided in subsection (5)(B) of the rule. Also, Ameren Missouri would change the word "paid" to the customer to "made available" to the customer. MOSEIA would add language to make it clear that solar scale utility will not be counted against the one percent (1%) cap in any year for purposes of paying solar rebates.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will make the suggested modifications.

COMMENT #28: Ameren Missouri asks the commission to not incorporate the word "annual" into paragraph (6)(A)4. because there is no annual one percent (1%) limit. Public Counsel supports that comment.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the requested change.

COMMENT #29: Ameren Missouri asks the commission to replace the term "case numbers" with "file numbers" in subparagraph (6)(A)17.C.
RESPONSE AND EXPLANATION OF CHANGE: File number is the phrase generally used by the commission and the phrase used in the subparagraph will be changed accordingly.

COMMENT #30: Ameren Missouri would remove the reference In subparagraph (8)(A)1.G. to serial numbers of RECs as it contends RECs are not assigned a serial number. Staff opposes that change, contending that RECs are in fact assigned serial numbers.
RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes staff's need to be able to identify the vintage and source of the RECs, even if a serial number is not available. The subparagraph will be modified for that purpose.

COMMENT #31: Ameren Missouri comments that section (8), which describes the annual reports to be filed by a utility, requires the filing of large amounts of detailed information. It suggests the filing requirement be modified to allow the utility to make voluminous

information available for staff's review without actually filing it. Staff opposes Ameren Missouri's proposal.
RESPONSE: The commission believes that it is important that the required information be filed as part of the electric utility's report rather than just made available for staff's review because staff is not the only entity that will view the report. The commission will not make the requested change in the section.

COMMENT #32: Renew Missouri urges the commission to add a requirement to paragraph (8)(A)1. and subparagraph (8)(B)1.F. to require the utility's annual RES plan to include the RRI calculation, not just a detailed explanation of the calculation.
RESPONSE: Renew Missouri's proposal for these paragraphs is tied to its proposal for section (5). (See Comment #12) The commission agreed with the proposal to modify section (5), and will similarly modify these paragraphs.

COMMENT #33: Subsection (8)(F) currently says the commission may establish a procedural schedule if necessary when considering a utility's RES compliance plan. Renew Missouri urges the commission to add language to require the commission to issue a final order directing that deficiencies in the compliance plan be corrected, or that the plan be approved. It would also require the commission to find that the utility has correctly calculated the RRI. Public Counsel also supports a revision to the rule that would allow the commission to issue an order directing the utility to correct deficiencies before a compliance report or plan would be approved. Staff is willing to see some sort of interim procedure to correct deficiencies short of requiring a complaint to be filed. KCP&L and GMO support the current procedures.
RESPONSE AND EXPLANATION OF CHANGE: The current rule allows the commission to establish a procedural schedule, but does not describe a purpose for doing so. The commission agrees that the rule needs to be clarified. The commission's proceedings to consider the electric utility's reports and plans are not a contested case and the commission does not believe a contested case is the best way to deal with those reports and plans. Therefore, the commission will not create a procedure that would require an evidentiary hearing. However, some procedure is appropriate to ensure that the commission is satisfied with the reports and plans submitted by the electric utility. The commission will modify the subsection to allow for such a procedure.

COMMENT #34: Staff offered a comment explaining the basis for the new provisions of subparagraph (8)(A)1.J.
RESPONSE: The commission thanks staff for its comment.

COMMENT #35: Subsection (9)(A) requires that any allegation of a failure to comply with the RES must be filed as a complaint under the commission's complaint procedure. Renew Missouri and Wind on the Wires urge the commission to remove the requirement that enforcement of the rule be made through the complaint process. Staff opposes that proposal.
RESPONSE: The comments of Renew Missouri and Wind on the Wires about the rule's complaint procedure are really addressing the commission's power to enforce compliance with the report and plan provisions of the rule that were addressed in Comment #33. The complaint procedures of the rule are necessary to provide due process to an electric utility against whom penalties could be imposed. The commission will not modify this subsection.

4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements

(1) Definitions. For the purpose of this rule—

(J) Operational means all of the major components of the on-site solar photovoltaic system have been purchased and installed on the customer generator's premises, and the production of rated net electrical generation has been measured by the utility. If a customer has satisfied all of the System Completion Requirements by June 30 of indicated years, but the electric utility is not able to complete all of the electric utility's steps needed to establish an Operational Date on or before June 30, the rebate rate will be determined as though the Operational Date was June 30. If it is subsequently determined that the customer or the System did not satisfy all Completion Requirements required of the customer on or before June 30, the rebate rate will be determined based on the Operational Date;

(N) Renewable energy resource(s) means electric energy, produced from the following:

1. Wind;

2. Solar, including solar thermal sources utilized to generate electricity, photovoltaic cells, or photovoltaic panels;

3. Dedicated crops grown for energy production;

4. Cellulosic agricultural residues;

5. Plant residues;

6. Methane from landfills, from agricultural operations or wastewater treatment;

7. Thermal depolymerization or pyrolysis for converting waste material to energy;

8. Clean and untreated wood, such as pallets;

9. Hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has generator nameplate ratings of ten (10) megawatts or less;

10. Fuel cells using hydrogen produced by any of the renewable energy technologies in paragraphs 1. through 9. of this subsection; and

11. Other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the division;

(2) Requirements. Pursuant to the provisions of this rule and sections 393.1025 and 393.1030, RSMo, all electric utilities must generate or purchase RECs and S-RECs associated with electricity from renewable energy resources in sufficient quantity to meet the RES portfolio requirements (renewable and solar) on a calendar year basis. Utility renewable energy resources utilized for compliance with this rule must include the RECs or S-RECs associated with the generation. The RES portfolio requirements are based on total retail electric sales of the electric utility. The requirements set forth in this rule shall not preclude an electric utility from recovering all of its prudently incurred investment and costs incurred for renewable energy resources that exceed the requirements or limits of this rule but are consistent with the prudent implementation of any resource acquisition strategy the electric utility developed in compliance with 4 CSR 240-22, Electric Utility Resource Planning. RECs or S-RECs produced from these additional renewable energy resources may count toward the RES portfolio requirements.

(A) Reserved*

(B) The amount of renewable energy resources or RECs that can be counted towards meeting the RES portfolio requirements are as follows:

1. If the facility generating the renewable energy resource is located in Missouri, the allowed amount is the kilowatt-hours (kWhs) generated by the applicable generating facility, multiplied by one and twenty-five hundredths (1.25) to effectuate the credit pursuant to section 393.1030.1, RSMo and subsection (3)(G) of this rule; and

2. Reserved*;

3. RECs created by the operation of customer-generator facilities and acquired by the Missouri electric utility shall qualify for RES compliance if the customer-generator is a Missouri electric energy retail customer, regardless of the amount of energy the customer-generator provides to the associated retail electric provider through net metering in accordance with 4 CSR 240-20.065, Net Metering. RECs are created by the operation of the customer-generator facility, even if a significant amount or the total amount of electrical energy is consumed on-site at the location of the customer-generator.

(C) If compliance with the RES portfolio requirements would

cause the retail rates of an electric utility to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, then compliance with those mandates shall be limited so that the cost of them would not cause retail rates of the electric utility to increase on average one percent (1%) as calculated per section (5) of this rule.

(D) If an electric utility is not required to meet the RES portfolio requirements in a calendar year, because doing so would cause retail rates to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, then the RES portfolio requirement for solar energy shall be no less than two percent (2%) of the renewable energy resources that can be acquired subject to the one percent (1%) average retail rates limit as calculated per section (5) of this rule.

(E) If an electric utility intends to accept proposals for renewable energy resources to be owned by the electric utility or an affiliate of the electric utility, it shall comply with the necessary requirements of 4 CSR 240-20.015, Affiliate Transactions.

(4) Solar Rebate. Pursuant to section 393.1030, RSMo, and this rule, electric utilities shall include in their tariffs a provision regarding retail account holder rebates for solar electric systems. These rebates shall be available to Missouri electric utility retail account holders who install new or expanded solar electric systems comprised of photovoltaic cells or photovoltaic panels.

(J) Electric utilities that have acquired S-RECs under a one- (1-) time lump sum payment in accordance with subsection (H) of this section or as a result of the solar rebate S-RECs transferred through the solar rebate may continue to account for purchased S-RECs even if the owner of the solar electric system ceases to operate the system or the system is decertified as a renewable energy resource. S-RECs originated under this subsection shall only be utilized by the original purchasing utility for compliance with this rule. S-RECs originated under this subsection shall not be sold or traded.

(L) The electric utility shall provide the solar rebate payment to qualified customer-generators within thirty (30) days of confirming the customer-generator's solar electric system is operational. Consistent with 4 CSR 240-20.065(9), customer-generators have up to twelve (12) months from when they receive notice of approval of their Interconnection Application/Agreement for Net Metering Systems with Capacity of One Hundred Kilowatts (100 kW) or less for the utility to confirm the customer-generator's solar electric system is operational.

1. The solar rebates per installed watt up to a maximum of twenty-five kilowatts (25 kW) per retail account are—

A. $2.00 per watt for systems operational on or before June 30, 2014;

B. $1.50 per watt for systems operational between July 1, 2014 and June 30, 2015 (inclusive);

C. $1.00 per watt for systems operational between July 1, 2015 and June 30, 2016 (inclusive);

D. $0.50 per watt for systems operational between July 1, 2016 and June 30, 2019 (inclusive);

E. $0.25 per watt for systems operational between July 1, 2019 and June 30, 2020 (inclusive); and

F. $0.00 per watt for systems operational after June 30, 2020.

G. An electric utility may offer solar rebates after July 1, 2020 through a commission-approved tariff.

(M) An electric utility may, through its tariff, require applications for solar rebates to be submitted up to one hundred eighty-two (182) days prior to the June 30 operational dates. The electric utility will pay the pre-June 30 rebate amount as defined in this subsection to customer-generators who comply with the submission and system operational requirements on or before June 30 of the following year. Customer-generators that fail to meet the submission or system operational requirements on or before the June 30 date will receive the post-June 30 rebate amount if the electric utility confirms their solar electric systems are operational within one (1) year of their application. If a customer has satisfied all of the System Completion Requirements by June 30 of indicated years, but the electric utility is not able to complete all of the electric utility's steps needed to establish an Operational Date on or before June 30, the rebate rate will be determined as though the Operational Date was June 30. If it is subsequently determined that the customer or the System did not satisfy all Completion Requirements required of the customer on or before June 30, the rebate rate will be determined based on the Operational Date.

(N) Unless the commission orders otherwise, if the electric utility meets or exceeds the retail rate impact limits of section (5) of this rule, the solar rebates shall be paid on a first-come, first-served basis, as determined by the solar system operational date. Any solar rebate applications that are not honored in a particular calendar year due to the requirements of this subsection shall be the first-come, first-served applications considered in the following calendar year.

(5) Retail Rate Impact.

(A) The retail rate impact (RRI), as calculated in subsection (5)(B), may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance. The retail rate impact shall be calculated annually on an incremental basis for each planning year based on procurement or development of renewable energy resources averaged over the succeeding ten- (10-) year period. The retail rate impact shall exclude renewable energy resources owned or under contract prior to September 30, 2010.

(B) The RES retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio.

1. The non-renewable generation and purchased power portfolio shall be determined by adding, to the utility's existing generation and purchased power resource portfolio excluding all renewable resources, additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years.

2. The RES-compliant portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio an amount of least cost renewable resources sufficient to achieve the portfolio requirements set forth in section (2) of this rule and an amount of least-cost non-renewable resources, the combination of which is sufficient to meet the utility's needs for the next ten (10) years.

3. The cost of the RES-compliant portfolio shall also include the positive or negative cumulative carry-forward amount as determined in subsection (5)(G).

4. Assumptions regarding projected renewable energy resource additions will utilize the most recent electric utility resource planning analysis. These comparisons will be conducted utilizing incremental revenue requirement for new renewable energy resources, less the avoided cost for non-renewable energy resources due to the addition of renewable energy resources. Such avoided costs shall be limited to those that may be included in a utility's revenue requirement for setting rates In addition, the projected impact on revenue requirements by non-renewable energy resources shall include the expected value of greenhouse gas emissions compliance costs, assuming that such costs are made at the expected value of the cost per ton of greenhouse gas emissions allowances, cost per ton of a greenhouse gas emissions tax (e.g., a carbon tax), or the cost per ton of greenhouse gas emissions reductions for any greenhouse gas emission reduction technology that is applicable to the utility's generation portfolio, whichever is lower. Calculations of the expected value of costs associated with greenhouse gas emissions shall be derived by applying the probability of the occurrence of future greenhouse gas regulations to expected level(s) of costs per ton associated with those regulations over the next ten (10) years. The impact on revenue requirements by non-renewable energy resources shall also include consideration of environmental risks other than those related to regulation or greenhouse gases. Any costs included to reflect consideration of such risks shall

be limited to those that may be included in a utility's revenue requirement for setting rates. Any variables utilized in the modeling shall be consistent with values established in prior rate proceedings, electric utility resource planning filings, or RES compliance plans, unless specific justification is provided for deviations. In no event shall the calculation of rate impact double count the cost of fuel or environmental compliance cost savings.

(D) For purposes of the determination in accordance with subsection (B) of this section, if the revenue requirement including the RES-compliant resource mix, averaged over the ten- (10-) year period, exceeds the revenue requirement that includes the non-renewable resource mix by more than one percent (1%), the utility shall adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not exceed one percent (1%). In making this adjustment, the solar requirement shall be in accordance with subsection (2)(D) of this rule. Prudently incurred costs to comply with the RES portfolio requirements, and passing this rate impact test, may be recovered in accordance with section (6) of this rule or through a rate proceeding outside or in a general rate case. When adjusting downward the proportion of renewable energy resources, in accordance with this subsection, the utility shall give first priority to reducing or eliminating the amount of RECs not associated with electricity delivered to Missouri customers.

(F) If the electric utility determines the maximum average retail rate increase provided for in section (5) will be reached in any calendar year, the electric utility may cease paying rebates to the extent necessary to avoid exceeding the maximum average retail rate increase by filing a request with the commission, at least sixty (60) days in advance, to suspend the solar rebate provisions in its tariff for the remainder of the calendar year.

1. The filing with the commission to suspend the electric corporation's solar rebate tariff provision shall include:

A. Its calculation reflecting that the maximum average retail rate increase will be reached with supporting documentation;

B. A proposed procedural schedule; and

C. A description of the process that it will use to cease or conclude the solar rebate payments to solar customers if the commission suspends its solar rebate tariff provision.

2. The commission shall rule on the suspension filing within sixty (60) days of the date it is filed. If the commission determines the maximum average retail rate increase will be reached, the commission shall suspend solar rebate payments. The commission will not suspend payment of solar rebates unless it expressly finds that the electric utility has accurately calculated the retail rate impact in the manner prescribed by this section (5).

3. The electric utility shall continue to process and pay applicable solar rebates until a final commission ruling.

A. If continuing to pay solar rebates causes the electric utility to exceed the maximum average retail rate increase, the excess payments shall not be considered to have been imprudently incurred for that reason.

(G) The utility shall calculate for each actual compliance year an annual carry-forward amount, illustration included herein as Attachment A. This amount shall be calculated as the positive or negative difference between the actual costs of RES compliance and an amount equal to the one percent (1%) cap, as calculated in subsection (5)(B), for the non-renewable generation and purchased power portfolio from its most recent annual RES compliance plan filed pursuant to subsection (7)(B) of this rule. The positive or negative cumulative carry-forward amount shall be calculated by accumulating the annual positive or negative annual carry-forward amounts. The initial cumulative carry-forward amount shall be equal to the sum of the annual carry-forward amounts for the period January 1, 2015, through December 31, 2015. Any annual carry-forward amounts shall be based on the revenue requirements analysis included in the utility's Annual RES Compliance Plan filed pursuant to subsection (8)(B) for each respective year. The positive or negative cumulative carry-forward amount shall be included in the cost of the RES-compliant portfolio for purposes of calculating the retail rate impact, as calculated in subsection (5)(B). Nothing in this subsection shall authorize recovery in excess of the one percent (1%) cap, as defined in subsection (5)(B).

(I) Not withstanding anything in subsection (5)(H), until June 30, 2020, if the maximum average retail rate increase, as calculated pursuant to subsection (5)(B) would be less than or equal to one percent (1%) if an electric utility's investment in solar-related projects initiated, owned, or operated by the electric utility is ignored for purposes of calculating the increase, then additional solar rebates shall be made available and included in rates in an amount up to the amount that would produce a retail rate increase equal to the difference between a one percent (1%) retail rate increase and the retail rate increase calculated when ignoring an electric utility's investment in solar projects initiated, owned, or operated by the electric utility.

(J) Each electric utility shall calculate its actual calendar year RRI each year and shall file those calculations as part of its annual RES compliance plan. The electric utility may designate all or part of those calculations as highly confidential, proprietary, or public as appropriate under the commission's rules.

(6) Cost Recovery and Pass-through of Benefits. An electric utility outside or in a general rate proceeding may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs or pass-through of benefits received as a result of compliance with the RES; provided that the average annual impact on retail customer rates does not exceed one percent (1%) over a ten- (10-) year period as set out in subsections (5)(A), (B) and (G). In all RESRAM applications, the increase in electric utility revenue requirements shall be calculated as the amount of additional RES compliance costs incurred since the electric utility's last RESRAM application or general rate proceeding, net of any reduction in RES compliance costs included in the electric utility's prior RESRAM application or general rate case, and any new RES compliance benefits.

(A) For all RESRAM filings, except the initial filings by the electric utility, if the actual increase in utility revenue requirement is less than two percent (2%), subsection (B) of this section shall be utilized. If the actual increase in utility revenue requirement is equal to or greater than two percent (2%), subsection (C) of this section shall be utilized. For the initial filing by the electric utility in accordance with this section, subsection (B) of this section shall be utilized as well, except that the staff, and individuals or entities granted intervention by the commission, may file a report or comments no later than one hundred twenty (120) days after the electric utility files its application and rate schedules to establish a RESRAM.

1. The pass-through of benefits has no single-year cap or limit.

2. Any party in a rate proceeding in which a RESRAM is in effect or proposed may seek to continue as is, modify, or oppose the RESRAM. The commission shall approve, modify, or reject such applications and rate schedules to establish a RESRAM only after providing the opportunity for an evidentiary hearing.

3. If the electric utility incurs costs in complying with the RES that exceed the one percent (1%) rate limit determined in accordance with section (5) of this rule for any year, those excess costs may be carried forward to future years for cost recovery permitted under this rule. Any costs carried forward shall have a carrying cost applied to them monthly equal to the interest on those carried forward costs calculated at the electric utility's short-term borrowing rate. These carried forward costs plus accrued carrying costs plus additional annual costs remain subject to the one percent (1%) rate limit for any subsequent years. In any calendar year that costs from a previous compliance year are carried forward, the carried forward costs will be considered for cost recovery prior to any new costs for the current calendar year.

4. For ownership investments in eligible renewable energy technologies in a RESRAM application, the electric utility shall be entitled to a rate of return equal to the electric utility's most recent authorized rate of return on rate base. Recovery of the rate of return for investment in renewable energy technologies in a RESRAM application is subject to the one percent (1%) limit specified in section (5) of this rule.

5. Upon the filing of proposed rate schedules with the commission seeking to recover costs or pass-through benefits of RES compliance, the commission will provide general notice of the filing.

6. The electric utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with paragraph 7. of this subsection before the notices are sent to customers:

A. An initial, one- (1-) time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes a RESRAM, explaining the utility's RES compliance and identifying the statutory authority under which it is implementing a RESRAM;

B. An annual notice to affected customers each year that a RESRAM is in effect explaining the continuation of its RESRAM and RES compliance; and

C. A RESRAM line item on all customer bills, which informs the customers of the presence and amount of the RESRAM charge.

7. Along with the electric utility's filing of proposed rate schedules to establish a RESRAM, the utility shall file the following items with the commission for approval or rejection, and the OPC may, within ten (10) days of the utility's filing of this information, submit comments regarding these notices to the commission:

A. An example of the notice required by subparagraph (A)6.A. of this section;

B. An example of the notice required by subparagraph (A)6.B. of this section; and

C. An example customer bill showing how the RESRAM will be described on affected customers' bills in accordance with subparagraph (A)6.C. of this section.

8. An electric utility may effectuate a change in its RESRAM no more often than one (1) time during any calendar year, not including changes as a result of paragraph 11. of this subsection.

9. Submission of Surveillance Monitoring Reports. Each electric utility with an approved RESRAM shall submit to staff, OPC, and parties approved by the commission, a Surveillance Monitoring Report. The form of the Surveillance Monitoring Report is included herein.

A. The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the RESRAM.

B. If the electric utility also has an approved fuel rate adjustment mechanism or environmental cost recovery mechanism (ECRM), the electric utility shall submit a single Surveillance Monitoring Report for the RESRAM, ECRM, the fuel rate adjustment mechanism, or any combination of the three (3). The electric utility shall designate on the single Surveillance Monitoring Report whether the submission is for RESRAM, ECRM, fuel rate adjustment mechanism, or any combination of the three (3).

C. Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in this paragraph, after notice and an opportunity for a hearing, the commission may suspend its RESRAM or order other appropriate remedies as provided by law.

10. The RESRAM charge will be calculated as a percentage of the customer's energy charge for the applicable billing period.

11. Commission approval of proposed rate schedules, to establish or modify a RESRAM, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to RES compliance costs during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. If the commission disallows, during a subsequent general rate proceeding, recovery of RES compliance costs previously in a RESRAM, or pass-through of benefits previously in a RESRAM, the electric utility shall offset its RESRAM in the future as necessary to recognize and account for any such costs or benefits. The offset amount shall include a calculation of interest at the electric utility's short-term borrowing rate as calculated in subparagraph (A)26.A. of this section. The RESRAM offset will be designed to reconcile such disallowed costs or benefits within the six- (6-) month period immediately subsequent to any commission order regarding such disallowance.

12. At the end of each twelve- (12-) month period that a RESRAM is in effect, the electric utility shall reconcile the differences between the revenues resulting from the RESRAM and the pretax revenues as found by the commission for that period and shall submit the reconciliation to the commission with its next sequential proposed rate schedules for RESRAM continuation or modification.

13. An electric utility that has implemented a RESRAM shall file revised RESRAM rate schedules to reset the RESRAM charge to zero (0) when new base rates and charges become effective following a commission report and order establishing customer rates in a general rate proceeding that incorporates RES compliance costs or benefits previously reflected in a RESRAM in the utility's base rates. If an over- or under-recovery of RESRAM revenues or over- or under-pass-through of RESRAM benefits exists after the RESRAM charge has been reset to zero (0), that amount of over- or under-recovery, or over- or under-pass-through, shall be tracked in an account and considered in the next RESRAM filing of the electric utility.

14. Upon the inclusion of RES compliance cost or benefit pass-through previously reflected in a RESRAM into an electric utility's base rates, the electric utility shall immediately thereafter reconcile any previously unreconciled RESRAM revenues or RESRAM benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RESRAM match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

15. In addition to the information required by subsection (B) or (C) of this section, the electric utility shall also provide the following information when it files proposed rate schedules with the commission seeking to establish, modify, or reconcile a RESRAM:

A. A description of all information posted on the utility's website regarding the RESRAM; and

B. A description of all instructions provided to personnel at the utility's call center regarding how those personnel should respond to calls pertaining to the RESRAM.

16. RES compliance costs shall only be recovered through a RESRAM or as part of a general rate proceeding and shall not be considered for cost recovery through an environmental cost recovery mechanism, fuel adjustment clause, or interim energy charge.

17. Pre-existing adjustment mechanisms, tariffs, and regulatory plans. The provisions of this rule shall not affect—

A. Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to September 30, 2010; and

B. Any experimental regulatory plan that was approved by the commission and in effect prior to September 30, 2010; and

C. The commission's reports and orders in file numbers ET-2014-0059, ET-2014-0071, and ET-2014-0085.

18. Each electric utility with a RESRAM shall submit, with an affidavit attesting to the veracity of the information, the following information on a monthly basis to the manager of the auditing unit of the commission and to OPC. The information shall be submitted to the manager of the auditing department through the electronic filing and information system (EFIS). The following information shall be

aggregated by month and supplied no later than sixty (60) days after the end of each month when the RESRAM is in effect. The first submission shall be made within sixty (60) days after the end of the first complete month after the RESRAM goes into effect. It shall contain, at a minimum—

A. The revenues billed pursuant to the RESRAM by rate class and voltage level, as applicable;

B. The revenues billed through the electric utility's base rate allowance by rate class and voltage level;

C. All significant factors that have affected the level of RESRAM revenues along with workpapers documenting these significant factors;

D. The difference, by rate class and voltage level, as applicable, between the total billed RESRAM revenues and the projected RESRAM revenues;

E. Any additional information the commission orders be provided; and

F. To the extent any of the requested information outlined above is provided in response to another section, the information only needs to be provided once.

19. Information required to be filed with the commission or submitted to the manager of the auditing unit of the commission and to OPC in this section shall also be, in the same format, served on or submitted to any party to the related rate proceeding in which the RESRAM was approved by the commission, periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

20. A person or entity granted intervention in a rate proceeding in which a RESRAM is approved by the commission shall be a party to any subsequent related periodic adjustment proceeding or prudence review, without the necessity of applying to the commission for intervention; and the commission shall issue an order identifying them. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM shall be served on or submitted to all parties from the prior related rate proceeding and on all parties from any subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing unit of the commission and OPC, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

21. A person or entity not a party to the rate proceeding in which the commission approves a RESRAM may timely apply to the commission for intervention, pursuant to sections 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic adjustment proceeding, or prudence review, or, pursuant to sections 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, continue, or discontinue the same RESRAM. If no party to a subsequent periodic adjustment proceeding or prudence review objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless, within the above-referenced ten- (10-) day period, the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten- (10-) day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

22. The results of discovery from a rate proceeding where the commission may approve, modify, reject, continue, or discontinue a RESRAM, or from any subsequent periodic adjustment proceeding or prudence review relating to the same RESRAM, may be used without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

23. If a party which submitted data requests relating to a proposed RESRAM in the rate proceeding where the RESRAM was established or in any subsequent related periodic adjustment proceeding or prudence review wants the responding party to whom the prior data requests were submitted to supplement or update that responding party's prior responses for possible use in a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response from a related rate proceeding where a RESRAM was established, reviewed for prudence, modified, continued, or discontinued, if the responding party has learned or subsequently learns that the data request response is in some material respect incomplete or incorrect.

24. Each rate proceeding where commission establishment, continuation, modification, or discontinuation of a RESRAM is the sole issue shall comprise a separate case. The same procedures for handling confidential information shall apply, pursuant to 4 CSR 240-2.135, as in the immediately preceding RESRAM case for the particular electric utility, unless otherwise directed by the commission on its own motion or as requested by a party and directed by the commission.

25. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

26. Prudence reviews respecting a RESRAM. A prudence review of the costs subject to the RESRAM shall be conducted no less frequently than at intervals established in the rate proceeding in which the RESRAM is established.

A. All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis for each month the RESRAM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative RESRAM over-collection or under-collection balance. Each month's accumulated interest shall be included in the RESRAM over-collection or under-collection balances on an ongoing basis.

B. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

(I) If the staff, OPC, or other party auditing the RESRAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RESRAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information shall timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing time line

shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing time line. For good cause shown the commission may further suspend this time line.

(II) If the time line is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subparagraph (A)26.A. of this section.

(8) Annual RES Compliance Report and RES Compliance Plan. Each electric utility shall file a RES compliance report no later than April 15 to report on the status of both its compliance with the RES and its compliance plan as described in this section for the most recently completed calendar year. Each electric utility shall file an annual RES compliance plan with the commission. The plan shall be filed no later than April 15 of each year.

(A) Annual RES Compliance Report.

1. The annual RES compliance report shall provide the following information for the most recently completed calendar year for the electric utility:

A. Total retail electric sales for the utility, as defined by this rule;

B. Total jurisdictional revenue from the total retail electric sales to Missouri customers as measured at the customers' meters;

C. Total retail electric sales supplied by renewable energy resources, as defined by section 393.1025(5), RSMo, including the source of the energy;

D. The number of RECs and S-RECs created by electrical energy produced by renewable energy resources owned by the electric utility. For the electrical energy produced by these utility-owned renewable energy resources, the value of the energy created. For the RECs and S-RECs, a calculated REC or S-REC value for each source and each category of REC;

E. The number of RECs acquired, sold, transferred, or retired by the utility during the calendar year;

F. The source of all RECs acquired during the calendar year;

G. The identification, by source and serial number, or some other identifier sufficient to establish the vintage and source of the REC, of any RECs that have been carried forward to a future calendar year;

H. An explanation of how any gains or losses from sale or purchase of RECs for the calendar year have been accounted for in any rate adjustment mechanism that was in effect for the electric utility;

I. For acquisition of electrical energy and/or RECs from a renewable energy resource that is not owned by the electric utility, except for systems owned by customer-generators, the following information for each resource that has a rated capacity of ten (10) kW or greater:

(I) Facility name, location (city, state), and owner;

(II) That the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate;

(III) The renewable energy technology utilized at the facility;

(IV) The dates and amounts of all payments from the electric utility to the owner of the facility; and

(V) All meter readings used for calculation of the payments referenced in part (IV) of this paragraph;

J. For acquisition of electrical energy and/or RECs from a customer generator—

(I) Location (zip code);

(II) Name of aggregated subaccount in which RECs are being tracked in;

(III) Interconnection date;

(IV) Annual estimated or measured generation; and

(V) The start and end date of any estimated or measured RECs being acquired;

K. The total number of customers that applied and received a solar rebate in accordance with section (4) of this rule;

L. The total number of customers that were denied a solar rebate and the reason(s) for each denial;

M. The amount expended by the electric utility for solar rebates, including the price and terms of future S-REC contracts associated with the facilities that qualified for the solar rebates;

N. An affidavit documenting the electric utility's compliance with the RES compliance plan as described in this section during the calendar year;

O. If compliance was not achieved, an explanation why the electric utility failed to meet the RES; and

P. A calculation of its actual calendar year retail rate impact.

2. On the same date that the electric utility files its annual RES compliance report, the utility shall post an electronic copy of its annual RES compliance report, excluding highly confidential or proprietary material, on its website to facilitate public access and review.

3. On the same date that the electric utility files its annual RES compliance report, the utility shall provide the commission with separate electronic copies of its annual RES compliance report including and excluding highly confidential and proprietary material. The commission shall place the redacted electronic copies of each electric utility's annual RES compliance reports on the commission's website in order to facilitate public viewing, as appropriate.

(B) RES Compliance Plan.

1. The plan shall cover the current year and the immediately following two (2) calendar years. The RES compliance plan shall include, at a minimum—

A. A specific description of the electric utility's planned actions to comply with the RES;

B. A list of executed contracts to purchase RECs (whether or not bundled with energy), including type of renewable energy resource, expected amount of energy to be delivered, and contract duration and terms;

C. The projected total retail electric sales for each year;

D. Any differences, as a result of RES compliance, from the utility's preferred resource plan as described in the most recent electric utility resource plan filed with the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning;

E. A detailed analysis providing information necessary to verify that the RES compliance plan is the least cost, prudent methodology to achieve compliance with the RES;

F. A calculation of the RES retail impact limit calculated in accordance with section (5) of this rule. The calculation should be accompanied by workpapers including all the relevant inputs used to calculate the retail impact limits for the planning interval which is included in the RES compliance plan. The electric utility may designate all or part of those calculations as highly confidential, proprietary, or public as appropriate under the commission's rules; and

G. Verification that the utility has met the requirements for not causing undue adverse air, water, or land use impacts pursuant to subsection 393.1030.4., RSMo, and the regulations of the division.

(F) The commission may direct the electric utility to provide additional information or to address any concerns or deficiencies identified in the comments of staff or other interested persons or entities.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission

under section 643.050, RSMo Supp. 2013, the commission rescinds a rule as follows:

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 15, 2015 (40 MoReg 621). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed rule rescission.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2013, the commission adopts a rule as follows:

10 CSR 10-6.261 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 15, 2015 (40 MoReg 621–626). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department's Air Pollution Control Program received eight (8) comments from the following seven (7) sources: Kansas City Power & Light Company (KCP&L), The Boeing Company, Washington University School of Law Interdisciplinary Environmental Clinic on behalf of Sierra Club (Washington University), the U.S. Environmental Protection Agency (EPA), Ameren Missouri, Sierra Club, and private citizens.

COMMENT #1: EPA provided comments on the variability analysis performed to support the thirty (30)-day rolling average limit for KCP&L's Hawthorn 5 unit. EPA also provided comments requesting more specificity on the contingency measures for the associated Jackson County SO_2 nonattainment area plan.
RESPONSE: Though the thirty (30)-day rolling average emission rate limit for KCP&L Hawthorn is listed in Table I of 10 CSR 10-6.261, the variability analysis performed to support the limit is part of the associated Jackson County SO_2 nonattainment area plan. The Air Program followed EPA guidance when developing the thirty (30)-day rolling average limits and the contingency measure requirements. These issues are discussed in more detail in the response to comments for the Jackson County SO_2 nonattainment area plan. No changes to the rule were made as a result of this comment.

COMMENT #2: Washington University, the Sierra Club, and several citizens commented that the proposed plan does not adequately protect public health in the nonattainment area and that the proposed plan's control strategy should be implemented more quickly than January 1, 2017. In addition, the Sierra Club provided letters from seventy-eight (78) citizens calling upon the DNR to create a plan that ensures protection of public health and not to wait until 2017 to see results.
RESPONSE: The Air Program strives to protect health in the development of all state plans, including the Jackson County SO_2 nonattainment area plan. EPA established January 1, 2017 as the date when emission controls, and associated emission reductions, must be fully operational in order to protect public health while allowing affected facilities reasonable time to make needed equipment and operational changes to comply. As detailed in the plan, the control strategy includes a ninety-five percent (95%) reduction in allowable SO_2 emissions from Veolia Energy. Realization of emission reductions from the largest SO_2 source located within the bounds of the Jackson County SO_2 nonattainment area will protect air quality and public health throughout the entire area – particularly within and near the nonattainment area. No changes to the rule were made as a result of these comments.

COMMENT #3: Washington University commented that the emission limits for Ameren Missouri Energy Center sources listed in Table I are not adequate to demonstrate attainment throughout the Jefferson County nonattainment area and that they should be substantially reduced before the rule is adopted. This comment was previously provided during the sixty (60)-day comment period on the draft rule text and Regulatory Impact Report as well as during the comment period on the Jefferson County SO_2 Nonattainment Area Plan. Washington University incorporated by reference the previous two (2) sets of comments in their comment letter submitted on this proposed new rule, which was presented at the June 25, 2015 public hearing.
RESPONSE: The Air Program previously considered and responded to Washington University's comments submitted during the rule development phase of 10 CSR 10-6.261 and the public comment period for the Jefferson County SO_2 Nonattainment Area Plan. The Table I SO_2 emission limits for the Ameren Missouri Energy Center sources are the same as those included in the 2015 Consent Agreement as part of the Jefferson County plan, which was adopted by the Air Conservation Commission on May 28, 2015 and submitted to EPA the following day. The SO_2 emission limits at the Ameren power plants are intended to support the continued attainment of the one (1)-hour SO_2 standard at the violating Mott Street monitor in Jefferson County. These limits, along with the other measures specified in the Jefferson County Plan, are intended to ensure attainment throughout the Jefferson County nonattainment area. No changes to the rule were made as a result of this comment.

COMMENT #4: Ameren Missouri provided comments that supported the rule. Ameren believes the proposed new SO_2 rule and state implementation plan will ensure that the ambient air quality standards are being met.
RESPONSE: The Air Program appreciates Ameren Missouri's comments in support of the proposed rule and state plan. No changes to the rule were made as a result of this comment.

COMMENT #5: Ameren Missouri acknowledged that the Jefferson County SO_2 nonattainment area plan has already been submitted to EPA for review and approval on May 29, 2015, but provided additional discussion on various aspects of that plan, as well as on the Regulatory Impact Report for 10 CSR 10-6.261.
RESPONSE: The Air Program has already considered and responded to Ameren's previous sets of comments submitted during the rule development phase of 10 CSR 10-6.261 and the public comment period for the Jefferson County SO_2 nonattainment area plan. No changes to the rule were made as a result of this comment.

COMMENT #6: As listed in Table I of the proposed SO_2 rule 10 CSR 10-6.261, Ameren commented that the Air Program should clarify that the Table I emission limits for the three (3) Ameren Missouri Energy Centers (specifically Labadie, Meramec, and Rush Island) are not necessary to achieve or demonstrate compliance with the one (1)-hour SO_2 standard; rather, the emission limits for these three (3) Ameren Energy Centers are merely safeguards to ensure that attainment is maintained in Jefferson County.

RESPONSE: The requirements of Table I, including SO_2 emission limits, are necessary to address federal Clean Air Act requirements associated with the one (1)-hour SO_2 standard. The emission limits for the three (3) Ameren Energy Centers in Table I are the same limits required by a 2015 Consent Agreement between Ameren Missouri and the department. Paragraph 6 of the 2015 Consent Agreement states that the parties agree that the Consent Agreement, which includes the emissions limits in Table I, "will be submitted to EPA as part of a State Implementation Plan revision... to demonstrate attainment and maintenance of the 2010 SO_2 NAAQS." No changes to the rule were made as a result of this comment.

COMMENT #7: KCP&L requested that the formatting in Table I, columns 3 and 4 be corrected to match the rows for clarity. KCP&L provided an example of the reformatted table.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Table I, columns 3 and 4, was reformatted to align the emission limit and averaging time with the corresponding source unit.

COMMENT #8: The Boeing Company commented that the exceptions in the Applicability section appear to place an affirmative duty on owners and operators to notify the department that the exception criterion is met. The natural gas/propane and small heating unit exceptions encompass a great many emission units in Missouri, many of which are located in residential and commercial buildings which are below the thresholds for even a basic operating permit. Boeing provided a suggested revision to section (1) to prevent such a reading and avoid widespread noncompliance with this provision.
RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, section (1) was amended to state that, upon request of the director, sources claiming the exception must provide information to confirm the exception criterion is met.

10 CSR 10-6.261 Control of Sulfur Dioxide Emissions

(1) Applicability. This rule applies to any source that emits sulfur dioxide (SO_2). The following exceptions apply to any source not listed in Table I of this rule. Upon request of the director, owners or operators must furnish the director information to confirm that an exception criterion is met.

(3) General Provisions.

(A) SO_2 Emission Limits. No later than January 1, 2017, owners or operators of sources and units listed in Table I of this rule must limit their SO_2 emissions as specified. As of the effective date of this rule, owners or operators of sources listed in Table II of this rule must limit their SO_2 emissions as specified.

Table I – Sources with SO_2 emission limits necessary to address the one (1)-hour SO_2 National Ambient Air Quality Standard*

Source	Source ID	Emission Limit per Source/Unit (Pounds SO_2 per Hour)	Averaging Time
Ameren Missouri — Labadie Energy Center	0710003	40,837	24-hour block average
Ameren Missouri — Meramec Energy Center	1890010	7,371	24-hour block average
Ameren Missouri — Rush Island Energy Center	0990016	13,600	24-hour block average
Independence Power and Light — Blue Valley Station	0950050		
Unit 1		Natural gas	N.A.
Unit 2		Natural gas	N.A.
Unit 3		Natural gas	N.A.
Kansas City Power and Light Co. — Hawthorn Station	0950022		
Boiler #5		785	30-day rolling
Combustion turbine 7		Natural gas	N.A.
Combustion turbine 8		Natural gas	N.A.
Combustion turbine 9		Natural gas	N.A.
Kansas City Power and Light Co. — Sibley Generating Station	0950031		
Boiler #1		1,468.17	30-day rolling
Boiler #2		1,447.01	30-day rolling
Boiler #3		10,632.02	30-day rolling
Veolia Energy Kansas City Inc. — Grand Ave. Station	0950021		
Boiler 1A		0.5	1 hour
Boiler 6 & 8		351.8	1 hour
Boiler 7		0.5	1 hour

*Any Table 1 source/unit fueled by coal, diesel, or fuel oil shall require an SO_2 Continuous Emission Monitoring System (CEMS) and owners or operators must follow all applicable requirements per subparagraph (3)(E)1.B. of this rule. Any source/unit that is fueled by natural gas (or changes fuels to natural gas no later than January 1, 2017) shall no longer require SO_2 CEMS for such units beginning with the completion date of the fuel change to natural gas.

Table II – Sources subject to SO_2 emission limits in place prior to 2010

Source	Source ID	Emission Limit per Source (Pounds SO_2 per Million Btus Actual Heat Input)	Averaging Time
Associated Electric Coop, Inc. — Chamois Plant	1510002	6.7	3 hours
Empire District Electric Company — Asbury Plant	0970001	12.0	3 hours
New Madrid Power Plant — Marston	1430004	10.0	3 hours
Thomas Hill Energy Center Power Division — Thomas Hill	1750001	8.0	3 hours
University of Missouri (MU) Columbia Power Plant	0190004	8.0	3 hours
Kansas City Power and Light Co. — Montrose Generating Station	0830001	3.9	24 hours
Ameren Missouri — Sioux Plant	1830001	4.8	Daily average, 00:01 to 24:00
Doe Run Company — Buick Resource Recycling Facility	0930009	8,650 pounds SO_2/hr	1-hour test repeated 3 times

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 31—Child Abuse

ORDER OF RULEMAKING

By the authority vested in the director under sections 207.020 and 210.145, RSMo Supp. 2014, the Department of Social Services, Children's Division, adopts a rule as follows:

13 CSR 35-31.010 Definitions **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 1, 2015 (40 MoReg 838). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 65—Missouri Medicaid Audit and Compliance
Chapter 2—Medicaid

ORDER OF RULEMAKING

By the authority vested in the director under sections 208.159 and 660.017, RSMo 2000, the Department of Social Services, Missouri Medicaid Audit and Compliance, amends a rule as follows:

13 CSR 65-2.020 Provider Enrollment and Application **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2015 (40 MoReg 838–840). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.090, 328.120, 329.025, and 329.040, RSMo Supp. 2013, the board amends a rule as follows:

20 CSR 2085-12.010 General Rules and Application Requirements for All Schools **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2015 (40 MoReg 841). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 328.120 and 329.025.1, RSMo Supp. 2013, the board amends a rule as follows:

20 CSR 2085-12.035 Requirements for Barber Students **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2015 (40 MoReg 841–842). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2085—Board of Cosmetology and Barber Examiners
Chapter 12—Schools and Student Rules—Barber and Cosmetology

ORDER OF RULEMAKING

By the authority vested in the Board of Cosmetology and Barber Examiners under sections 329.025.1, 329.040, and 329.050, RSMo Supp. 2013, the board amends a rule as follows:

20 CSR 2085-12.060 Requirements for Cosmetology Students **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2015 (40 MoReg 842–843). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2115—State Committee of Dietitians
Chapter 1—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Committee of Dietitians under section 324.228, RSMo 2000, and section 324.212.4, RSMo Supp. 2013, the committee amends a rule as follows:

20 CSR 2115-1.040 Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 1, 2015 (40 MoReg 843–845). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST FC PROPERTIES, LLC

On August 20, 2015, FC Properties, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Secretary of State of Missouri.

The Company requests that any and all claims against the Company be presented by letter to the Company in care of Frank Cook, 121 Amherst Place, Ponte Vedra, FL 32801. Each claim against the Company must include the following information: the name, the address and telephone number of the claimant; the amount of the claim; the date on which the claim arose; a brief description of the nature of or the basis for the claim; and any documentation related to the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

NOTICE OF WINDING UP AND DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST BROWNSTONE PROPERTIES-GETTYSBURG, LLC

On September 4, 2015, Brownstone Properties-Gettysburg, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up and Dissolution of the Company with the Missouri Secretary of State. The Company requests that all persons and organizations who have claims against the Company present them immediately by letter to Mr. Andrew J. Brown, 635 Trade Center Blvd., Chesterfield, MO 63005. All claims **must** include the name and address of the claimant, the amount claimed, the basis for and a description of the claim, and include copies of any supporting documentation. Any and all claims against the Company will be barred unless a proceeding to enforce such claim is commenced within three (3) years after the publication of this notice.

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—39 (2014) and 40 (2015). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR	Office of Administration				40 MoReg 851
1 CSR 10	State Officials' Salary Compensation Schedule				37 MoReg 1859 38 MoReg 2053 39 MoReg 2074
1 CSR 10-15.010	Commissioner of Administration	This Issue	This Issue		
1 CSR 50-2.015	Missouri Ethics Commission		40 MoReg 1255		
1 CSR 50-2.020	Missouri Ethics Commission		40 MoReg 1256		
1 CSR 50-2.030	Missouri Ethics Commission		40 MoReg 1256		
1 CSR 50-2.040	Missouri Ethics Commission		40 MoReg 1256		
1 CSR 50-2.075	Missouri Ethics Commission		40 MoReg 1257		
1 CSR 50-2.100	Missouri Ethics Commission		40 MoReg 1257		
1 CSR 50-2.110	Missouri Ethics Commission		40 MoReg 1257		
1 CSR 50-2.120	Missouri Ethics Commission		40 MoReg 1258		
1 CSR 50-2.130	Missouri Ethics Commission		40 MoReg 1258		
1 CSR 50-2.140	Missouri Ethics Commission		40 MoReg 1259		
1 CSR 50-4.010	Missouri Ethics Commission		40 MoReg 1259		
	DEPARTMENT OF AGRICULTURE				
2 CSR	Department of Agriculture				40 MoReg 851
2 CSR 80-5.010	State Milk Board		40 MoReg 516	40 MoReg 1045	
2 CSR 80-6.041	State Milk Board		40 MoReg 518	40 MoReg 1045	
2 CSR 90-10	Weights and Measures				38 MoReg 1241 39 MoReg 1399 40 MoReg 1046
2 CSR 100-2.020	Missouri Agricultural and Small Business Development Authority		40 MoReg 1089		
2 CSR 100-2.040	Missouri Agricultural and Small Business Development Authority		40 MoReg 1089		
	DEPARTMENT OF CONSERVATION				
3 CSR	Department of Conservation				40 MoReg 851
3 CSR 10-1.010	Conservation Commission		40 MoReg 1259		
3 CSR 10-5.205	Conservation Commission		40 MoReg 1261		
3 CSR 10-6.505	Conservation Commission		40 MoReg 1261		
3 CSR 10-7.410	Conservation Commission		40 MoReg 1262		
3 CSR 10-7.431	Conservation Commission		40 MoReg 1262		
3 CSR 10-7.434	Conservation Commission		40 MoReg 1263		
3 CSR 10-7.440	Conservation Commission		N.A. N.A.	40 MoReg 1045 40 MoReg 1317	
3 CSR 10-7.455	Conservation Commission		40 MoReg 1263		
3 CSR 10-10.722	Conservation Commission		40 MoReg 1264		
3 CSR 10-11.115	Conservation Commission		40 MoReg 1264		
3 CSR 10-11.130	Conservation Commission		40 MoReg 1265		
3 CSR 10-11.180	Conservation Commission		40 MoReg 1265		
3 CSR 10-11.186	Conservation Commission		40 MoReg 1267		
3 CSR 10-11.205	Conservation Commission		40 MoReg 1268		
3 CSR 10-12.109	Conservation Commission		40 MoReg 1268		
3 CSR 10-12.110	Conservation Commission		40 MoReg 1269		
3 CSR 10-12.115	Conservation Commission		40 MoReg 1269		
3 CSR 10-12.125	Conservation Commission		40 MoReg 1270		
3 CSR 10-12.135	Conservation Commission		40 MoReg 1270		
3 CSR 10-12.140	Conservation Commission		40 MoReg 1274		
3 CSR 10-12.145	Conservation Commission		40 MoReg 1277		
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR	Department of Economic Development				40 MoReg 851
4 CSR 85-11.010	Division of Business and Community Services		40 MoReg 871		
4 CSR 85-11.020	Division of Business and Community Services		40 MoReg 871		
4 CSR 240-2.061	Public Service Commission		40 MoReg 520R		
4 CSR 240-2.062	Public Service Commission		40 MoReg 520R		
4 CSR 240-3.500	Public Service Commission		40 MoReg 520R		
4 CSR 240-3.505	Public Service Commission		40 MoReg 521R		
4 CSR 240-3.510	Public Service Commission		40 MoReg 521R		
4 CSR 240-3.513	Public Service Commission		40 MoReg 521R		
4 CSR 240-3.515	Public Service Commission		40 MoReg 522R		
4 CSR 240-3.520	Public Service Commission		40 MoReg 522R		
4 CSR 240-3.525	Public Service Commission		40 MoReg 523R		
4 CSR 240-3.530	Public Service Commission		40 MoReg 523R		
4 CSR 240-3.535	Public Service Commission		40 MoReg 523R		
4 CSR 240-3.540	Public Service Commission		40 MoReg 524R		
4 CSR 240-3.545	Public Service Commission		40 MoReg 524R		
4 CSR 240-3.550	Public Service Commission		40 MoReg 524R		
4 CSR 240-3.555	Public Service Commission		40 MoReg 525R		

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4 CSR 240-3.560	Public Service Commission		40 MoReg 525R		
4 CSR 240-3.565	Public Service Commission		40 MoReg 526R		
4 CSR 240-20.065	Public Service Commission		40 MoReg 526	This Issue	
4 CSR 240-20.100	Public Service Commission		40 MoReg 538	This Issue	
4 CSR 240-28.010	Public Service Commission		40 MoReg 555		
4 CSR 240-28.020	Public Service Commission		40 MoReg 555		
4 CSR 240-28.030	Public Service Commission		40 MoReg 556		
4 CSR 240-28.040	Public Service Commission		40 MoReg 558		
4 CSR 240-28.050	Public Service Commission		40 MoReg 559		
4 CSR 240-28.060	Public Service Commission		40 MoReg 560		
4 CSR 240-28.070	Public Service Commission		40 MoReg 561		
4 CSR 240-28.080	Public Service Commission		40 MoReg 562		
4 CSR 240-28.090	Public Service Commission		40 MoReg 563		
4 CSR 240-30.020	Public Service Commission		40 MoReg 564R		
4 CSR 240-30.040	Public Service Commission		40 MoReg 564R		
4 CSR 240-32.010	Public Service Commission		40 MoReg 564R		
4 CSR 240-32.020	Public Service Commission		40 MoReg 565R		
4 CSR 240-32.040	Public Service Commission		40 MoReg 565R		
4 CSR 240-32.050	Public Service Commission		40 MoReg 566R		
4 CSR 240-32.060	Public Service Commission		40 MoReg 566R		
4 CSR 240-32.070	Public Service Commission		40 MoReg 566R		
4 CSR 240-32.080	Public Service Commission		40 MoReg 567R		
4 CSR 240-32.090	Public Service Commission		40 MoReg 567R		
4 CSR 240-32.100	Public Service Commission		40 MoReg 567R		
4 CSR 240-32.120	Public Service Commission		40 MoReg 568R		
4 CSR 240-32.130	Public Service Commission		40 MoReg 568R		
4 CSR 240-32.140	Public Service Commission		40 MoReg 569R		
4 CSR 240-32.150	Public Service Commission		40 MoReg 569R		
4 CSR 240-32.160	Public Service Commission		40 MoReg 569R		
4 CSR 240-32.170	Public Service Commission		40 MoReg 570R		
4 CSR 240-32.180	Public Service Commission		40 MoReg 570R		
4 CSR 240-32.190	Public Service Commission		40 MoReg 570R		
4 CSR 240-32.200	Public Service Commission		40 MoReg 571R		
4 CSR 240-33.010	Public Service Commission		40 MoReg 571R		
4 CSR 240-33.020	Public Service Commission		40 MoReg 572R		
4 CSR 240-33.040	Public Service Commission		40 MoReg 572R		
4 CSR 240-33.045	Public Service Commission		40 MoReg 572R		
4 CSR 240-33.050	Public Service Commission		40 MoReg 573R		
4 CSR 240-33.060	Public Service Commission		40 MoReg 573R		
4 CSR 240-33.070	Public Service Commission		40 MoReg 574R		
4 CSR 240-33.080	Public Service Commission		40 MoReg 574R		
4 CSR 240-33.090	Public Service Commission		40 MoReg 574R		
4 CSR 240-33.100	Public Service Commission		40 MoReg 575R		
4 CSR 240-33.110	Public Service Commission		40 MoReg 575R		
4 CSR 240-33.120	Public Service Commission		40 MoReg 575R		
4 CSR 240-33.130	Public Service Commission		40 MoReg 576R		
4 CSR 240-33.140	Public Service Commission		40 MoReg 576R		
4 CSR 240-33.150	Public Service Commission		40 MoReg 577R		
4 CSR 240-33.160	Public Service Commission		40 MoReg 577R		
4 CSR 240-33.170	Public Service Commission		40 MoReg 577R		
4 CSR 340-2	Division of Energy				40 MoReg 1046
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR	Department of Elementary and Secondary Education				40 MoReg 851
5 CSR 20-600.110	Division of Learning Services		40 MoReg 834		
5 CSR 20-600.140	Division of Learning Services		40 MoReg 394	40 MoReg 1096	
5 CSR 30-4.030	Division of Financial and Administrative Services		40 MoReg 1277		
5 CSR 30-640.200	Division of Financial and Administrative Services		40 MoReg 834		
5 CSR 100-200.130	Missouri Commission for the Deaf and Hard of Hearing		40 MoReg 395	40 MoReg 1096	
	DEPARTMENT OF HIGHER EDUCATION				
6 CSR	Department of Higher Education				40 MoReg 851
	DEPARTMENT OF TRANSPORTATION				
7 CSR 10-25.010	Missouri Highways and Transportation Commission				40 MoReg 1047 40 MoReg 1048 40 MoReg 1049 40 MoReg 1099 40 MoReg 1100 40 MoReg 1221 40 MoReg 1319 40 MoReg 1320
7 CSR 10-25.030	Missouri Highways and Transportation Commission		40 MoReg 751		
	DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS				
8 CSR 50-2.025	Division of Workers' Compensation		40 MoReg 930		
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR 10-6.060	Air Conservation Commission		40 MoReg 1142		
10 CSR 10-6.065	Air Conservation Commission		40 MoReg 1155		
10 CSR 10-6.110	Air Conservation Commission		39 MoReg 1509	40 MoReg 138	
10 CSR 10-6.241	Air Conservation Commission		40 MoReg 1013		
10 CSR 10-6.250	Air Conservation Commission		40 MoReg 1023		
10 CSR 10-6.260	Air Conservation Commission		40 MoReg 621R	This IssueR	
10 CSR 10-6.261	Air Conservation Commission		40 MoReg 621	This Issue	
10 CSR 10-6.372	Air Conservation Commission		40 MoReg 753		

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10 CSR 10-6.374	Air Conservation Commission		40 MoReg 765		
10 CSR 10-6.376	Air Conservation Commission		40 MoReg 777		
10 CSR 25-3.260	Hazardous Waste Management Commission		40 MoReg 626		
10 CSR 25-4.261	Hazardous Waste Management Commission		40 MoReg 629		
10 CSR 25-5.262	Hazardous Waste Management Commission		40 MoReg 631		
10 CSR 25-6.263	Hazardous Waste Management Commission		40 MoReg 639		
10 CSR 25-7.264	Hazardous Waste Management Commission		40 MoReg 639		
10 CSR 25-7.265	Hazardous Waste Management Commission		40 MoReg 650		
10 CSR 25-7.266	Hazardous Waste Management Commission		40 MoReg 655		
10 CSR 25-7.268	Hazardous Waste Management Commission		40 MoReg 656		
10 CSR 25-7.270	Hazardous Waste Management Commission		40 MoReg 657		
10 CSR 25-8.124	Hazardous Waste Management Commission		40 MoReg 662		
10 CSR 25-9.020	Hazardous Waste Management Commission		40 MoReg 663		
10 CSR 25-11.279	Hazardous Waste Management Commission		40 MoReg 665		
10 CSR 25-12.010	Hazardous Waste Management Commission		40 MoReg 872		
10 CSR 25-13.010	Hazardous Waste Management Commission		40 MoReg 666		
10 CSR 25-16.273	Hazardous Waste Management Commission		40 MoReg 670		
10 CSR 40-10.020	Land Reclamation Commission		40 MoReg 1173		
10 CSR 50-1.010	Oil and Gas Council		This Issue		
10 CSR 50-1.020	Oil and Gas Council		This Issue		
10 CSR 50-1.030	Oil and Gas Council		This Issue		
10 CSR 50-1.040	Oil and Gas Council		This Issue		
10 CSR 50-1.050	Oil and Gas Council		This Issue		
10 CSR 50-2.010	Oil and Gas Council		This Issue		
10 CSR 50-2.020	Oil and Gas Council		This Issue		
10 CSR 50-2.030	Oil and Gas Council		This Issue		
10 CSR 50-2.040	Oil and Gas Council		This Issue		
10 CSR 50-2.050	Oil and Gas Council		This Issue		
10 CSR 50-2.055	Oil and Gas Council		This Issue		
10 CSR 50-2.060	Oil and Gas Council		This Issue		
10 CSR 50-2.065	Oil and Gas Council		This Issue		
10 CSR 50-2.070	Oil and Gas Council		This IssueR		
10 CSR 50-2.080	Oil and Gas Council		This Issue		
10 CSR 50-2.090	Oil and Gas Council		This Issue		
10 CSR 50-2.100	Oil and Gas Council		This Issue		
10 CSR 50-2.110	Oil and Gas Council		This IssueR		
10 CSR 50-2.120	Oil and Gas Council		This Issue		
10 CSR 50-3.010	Oil and Gas Council		This Issue		
10 CSR 50-3.020	Oil and Gas Council		This Issue		
10 CSR 50-4.010	Oil and Gas Council		This Issue		
10 CSR 50-4.020	Oil and Gas Council		This Issue		
10 CSR 50-5.010	Oil and Gas Council		This Issue		
10 CSR 60-2.015	Safe Drinking Water Commission		40 MoReg 1177		
10 CSR 60-4.020	Safe Drinking Water Commission		40 MoReg 1179		
10 CSR 60-4.022	Safe Drinking Water Commission		40 MoReg 1179		
10 CSR 60-4.025	Safe Drinking Water Commission		40 MoReg 1200		
10 CSR 60-4.055	Safe Drinking Water Commission		40 MoReg 1201		
10 CSR 60-5.010	Safe Drinking Water Commission		40 MoReg 1201		
10 CSR 60-7.010	Safe Drinking Water Commission		40 MoReg 1201		
10 CSR 60-8.010	Safe Drinking Water Commission		40 MoReg 1202		
10 CSR 60-8.030	Safe Drinking Water Commission		40 MoReg 1204		
10 CSR 60-9.010	Safe Drinking Water Commission		40 MoReg 1216		
	DEPARTMENT OF PUBLIC SAFETY				
11 CSR 45-1.090	Missouri Gaming Commission		40 MoReg 1280		
11 CSR 45-4.020	Missouri Gaming Commission		40 MoReg 1280		
11 CSR 45-4.030	Missouri Gaming Commission		40 MoReg 1280		
11 CSR 45-9.030	Missouri Gaming Commission		40 MoReg 1281		
11 CSR 45-9.050	Missouri Gaming Commission		40 MoReg 1283		
11 CSR 45-9.060	Missouri Gaming Commission		40 MoReg 1283		
11 CSR 45-9.101	Missouri Gaming Commission		40 MoReg 1283		
11 CSR 45-9.103	Missouri Gaming Commission		40 MoReg 1284		
11 CSR 45-13.051	Missouri Gaming Commission		40 MoReg 930		
11 CSR 45-13.065	Missouri Gaming Commission		40 MoReg 931		
11 CSR 45-30.025	Missouri Gaming Commission		40 MoReg 932		
11 CSR 45-30.060	Missouri Gaming Commission		40 MoReg 932R		
11 CSR 45-30.070	Missouri Gaming Commission		40 MoReg 932		
11 CSR 45-30.090	Missouri Gaming Commission		40 MoReg 933		
11 CSR 45-30.130	Missouri Gaming Commission		40 MoReg 933		
11 CSR 45-30.140	Missouri Gaming Commission		40 MoReg 934		
11 CSR 45-30.145	Missouri Gaming Commission		40 MoReg 934R		
11 CSR 45-30.150	Missouri Gaming Commission		40 MoReg 934		
11 CSR 45-30.155	Missouri Gaming Commission		40 MoReg 935		
11 CSR 45-30.175	Missouri Gaming Commission		40 MoReg 935		
11 CSR 45-30.180	Missouri Gaming Commission		40 MoReg 936		
11 CSR 45-30.190	Missouri Gaming Commission		40 MoReg 936		
11 CSR 45-30.200	Missouri Gaming Commission		40 MoReg 937		
11 CSR 45-30.235	Missouri Gaming Commission		40 MoReg 937		
11 CSR 45-30.250	Missouri Gaming Commission		40 MoReg 938R		
11 CSR 45-30.270	Missouri Gaming Commission		40 MoReg 938		
11 CSR 45-30.280	Missouri Gaming Commission		40 MoReg 939R 40 MoReg 939		
11 CSR 45-30.340	Missouri Gaming Commission		40 MoReg 940		
11 CSR 45-30.355	Missouri Gaming Commission		40 MoReg 940		
11 CSR 45-30.357	Missouri Gaming Commission		40 MoReg 941		
11 CSR 45-30.370	Missouri Gaming Commission		40 MoReg 941		
11 CSR 45-30.523	Missouri Gaming Commission		40 MoReg 942		

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11 CSR 45-30.525	Missouri Gaming Commission		40 MoReg 942		
11 CSR 45-30.535	Missouri Gaming Commission		40 MoReg 943		
11 CSR 45-30.540	Missouri Gaming Commission		40 MoReg 944		
11 CSR 45-30.545	Missouri Gaming Commission		40 MoReg 944		
11 CSR 45-30.550	Missouri Gaming Commission		40 MoReg 944		
11 CSR 45-30.575	Missouri Gaming Commission		40 MoReg 945		
11 CSR 45-30.580	Missouri Gaming Commission		40 MoReg 945		
11 CSR 45-30.590	Missouri Gaming Commission		40 MoReg 946		
11 CSR 45-30.600	Missouri Gaming Commission		40 MoReg 947		
11 CSR 45-30.610	Missouri Gaming Commission		40 MoReg 948		
11 CSR 75-18.010	Peace Officer Standards and Training Program		40 MoReg 232	40 MoReg 969	
11 CSR 75-18.020	Peace Officer Standards and Training Program		40 MoReg 233	40 MoReg 973	
11 CSR 75-18.030	Peace Officer Standards and Training Program		40 MoReg 234	40 MoReg 973	
11 CSR 75-18.040	Peace Officer Standards and Training Program		40 MoReg 234	40 MoReg 976	
11 CSR 75-18.050	Peace Officer Standards and Training Program		40 MoReg 235	40 MoReg 976	
11 CSR 75-18.060	Peace Officer Standards and Training Program		40 MoReg 235	40 MoReg 976	
11 CSR 75-18.070	Peace Officer Standards and Training Program		40 MoReg 236	40 MoReg 976	
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Commissioner of Administration				
1 CSR 10-15.010	Cafeteria Plan	This Issue	Jan. 1, 2016	June 28, 2016
Department of Agriculture				
Animal Health				
2 CSR 30-10.010	Inspection of Meat and Poultry	Nov. 16, 2015 Issue	Oct. 12, 2015	April 8, 2016
Department of Revenue				
Director of Revenue				
12 CSR 10-44.100	Excess Traffic Violation Revenue	40 MoReg 1243	Sept. 11, 2015	March 8, 2016
Department of Social Services				
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13 CSR 40-2.300	Definitions Which Are Applicable for Benefit Programs Funded by the Temporary Assistance for Needy Families (TANF) Block Grant	40 MoReg 1244	Aug. 28, 2015	Feb. 23, 2016
13 CSR 40-2.310	Requirements as to Eligibility for Temporary Assistance	40 MoReg 1245	Aug. 28, 2015	Feb. 23, 2016
13 CSR 40-2.315	Work Activity and Work Requirements for Recipients of Temporary Assistance	40 MoReg 1247	Aug. 28, 2015	Feb. 23, 2016
MO HealthNet Division				
13 CSR 70-10.110	Nursing Facility Reimbursement Allowance	40 MoReg 923	July 1, 2015	Dec. 28, 2015
13 CSR 70-15.010	Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Reimbursement Methodology	40 MoReg 923	July 1, 2015	Dec. 28, 2015
13 CSR 70-15.110	Federal Reimbursement Allowance	40 MoReg 924	July 1, 2015	Dec. 28, 2015
13 CSR 70-20.340	National Drug Code Requirement	40 MoReg 926	July 1, 2015	Dec. 28, 2015
Elected Officials				
State Auditor				
15 CSR 40-3.030	Annual Financial Reports of Political Subdivisions	40 MoReg 1250	Sept. 11, 2015	March 8, 2016
Department of Insurance, Financial Institutions and Professional Registration				
Life, Annuities and Health				
20 CSR 400-11.140	Renewal Applications and Fees–Individual Navigators and Entity Navigators	40 MoReg 1003	July 25, 2015	Feb. 25, 2016
Board of Cosmetology and Barber Examiners				
20 CSR 2085-12.010	General Rules and Application Requirements for All Schools	40 MoReg 829	June 7, 2015	Feb. 25, 2016
20 CSR 2085-12.035	Requirements for Barber Schools	40 MoReg 830	June 7, 2015	Feb. 25, 2016
20 CSR 2085-12.060	Requirements for Cosmetology Schools	40 MoReg 831	June 7, 2015	Feb. 25, 2016
State Board of Embalmers and Funeral Directors				
20 CSR 2120-2.100	Fees	40 MoReg 1141	Aug. 21, 2015	Feb. 25, 2016
State Board of Registration for the Healing Arts				
20 CSR 2150-3.010	Applicants for Licensure as Professional Physical Therapists	40 MoReg 1087	Aug. 6, 2015	Feb. 25, 2016
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20 CSR 2220-4.010	General Fees	40 MoReg 1009	July 20, 2015	Dec. 1, 2015
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Health Care Plan				
22 CSR 10-2.094	Tobacco-Free Incentive Provisions and Limitations (Res)	40 MoReg 1250	Oct. 1, 2015	March 28, 2016
22 CSR 10-2.094	Tobacco-Free Incentive Provisions and Limitations	40 MoReg 1251	Oct. 1, 2015	March 28, 2016
22 CSR 10-2.120	Partnership Incentive Provisions and Limitations (Res)	40 MoReg 1252	Oct. 1, 2015	March 28, 2016
22 CSR 10-2.120	Partnership Incentive Provisions and Limitations	40 MoReg 1253	Oct. 1, 2015	March 28, 2016

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	2015		
15-05	Extends Executive Order 15-03 until August 14, 2015.	July 14, 2015	40 MoReg 1012
15-04	Orders all departments, agencies, boards, and commissions to comply with the Obergefell decision and rescinds Executive Order 13-14.	July 7, 2015	40 MoReg 1010
15-03	Declares a state of emergency exist in the State of Missouri and directs that the Missouri State of Emergency Operations Plan be activated.	June 18, 2015	40 MoReg 928
15-02	Extends Executive Order 14-06 and orders that the Division of Energy deliver a state energy plan to the governor by October 15, 2015.	May 22, 2015	40 MoReg 833
15-01	Appoints Byron M. Watson to the Ferguson Commission to fill the vacancy created by the resignation of Bethany A. Johnson-Javois.	Jan. 2, 2015	40 MoReg 173
	2014		
14-16	Extends Executive Order 14-07 and further orders that the Disparity Study Oversight Review Committee present its report to the governor and commissioner of administration by January 31, 2015.	Dec. 24, 2014	40 MoReg 129
14-15	Establishes the "Ferguson Commission" which shall study and recommend ways to make the St. Louis region a stronger, fairer place for everyone to live by studying the following subjects: 1) citizen-law enforcement interactions and relations; 2) racial and ethnic relations; 3) municipal government organization and the municipal court system; and 4) disparities in substantive areas.	Nov. 18, 2014	40 MoReg 5
14-14	Declares a state of emergency exists in the state of Missouri and directs the Missouri State Highway Patrol with the St. Louis County Police Department and the St. Louis Metropolitan Police Department to operate as a Unified command and ensure public safety in the City of Ferguson and the St. Louis Region and further orders the Adjutant General to call and order into service such portions of the organized militia as he deems necessary.	Nov. 17, 2014	39 MoReg 2116
14-13	Closes state offices Nov. 28, 2014.	Oct. 31, 2014	39 MoReg 1811
14-12	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Activation Plan be activated.	Oct. 22, 2014	39 MoReg 1809
14-11	Establishes the Office of Community Engagement.	Sept. 18, 2014	39 MoReg 1656
14-10	Terminates Executive Orders 14-08 and 14-09.	Sept. 3, 2014	39 MoReg 1613
14-09	Activates the state militia in response to civil unrest in the City of Ferguson and authorizes the superintendent of the Missouri State Highway Patrol to maintain peace and order.	Aug. 18, 2014	39 MoReg 1566
14-08	Declares a state of emergency exists in the state of Missouri and directs the Missouri State Highway Patrol to command all operations necessary in the city of Ferguson, further orders other law enforcement to assist the patrol when requested, and imposes a curfew.	Aug. 16, 2014	39 MoReg 1564
14-07	Establishes the Disparity Study Oversight Review Committee.	July 2, 2014	39 MoReg 1345
14-06	Orders that the Division of Energy develop a comprehensive State Energy Plan to chart a course toward a sustainable and prosperous energy future that will create jobs and improve Missourians' quality of life.	June 18, 2014	39 MoReg 1262
14-05	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated.	May 11, 2014	39 MoReg 1114
14-04	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated.	April 3, 2014	39 MoReg 1027
14-03	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies.	March 20, 2014	39 MoReg 958
14-02	Orders the Honor and Remember Flag be flown at the State Capitol each Armed Forces Day, held on the third Saturday of each May.	March 20, 2014	39 MoReg 956
14-01	Creates the Missouri Military Partnership to protect, retain, and enhance the Department of Defense activities in the state of Missouri.	Jan. 10, 2014	39 MoReg 491

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disinfection requirements; 10 CSR 60-4.055; 9/15/15
ground water rule monitoring and treatment technique requirements; 10 CSR 60-4.025; 9/15/15
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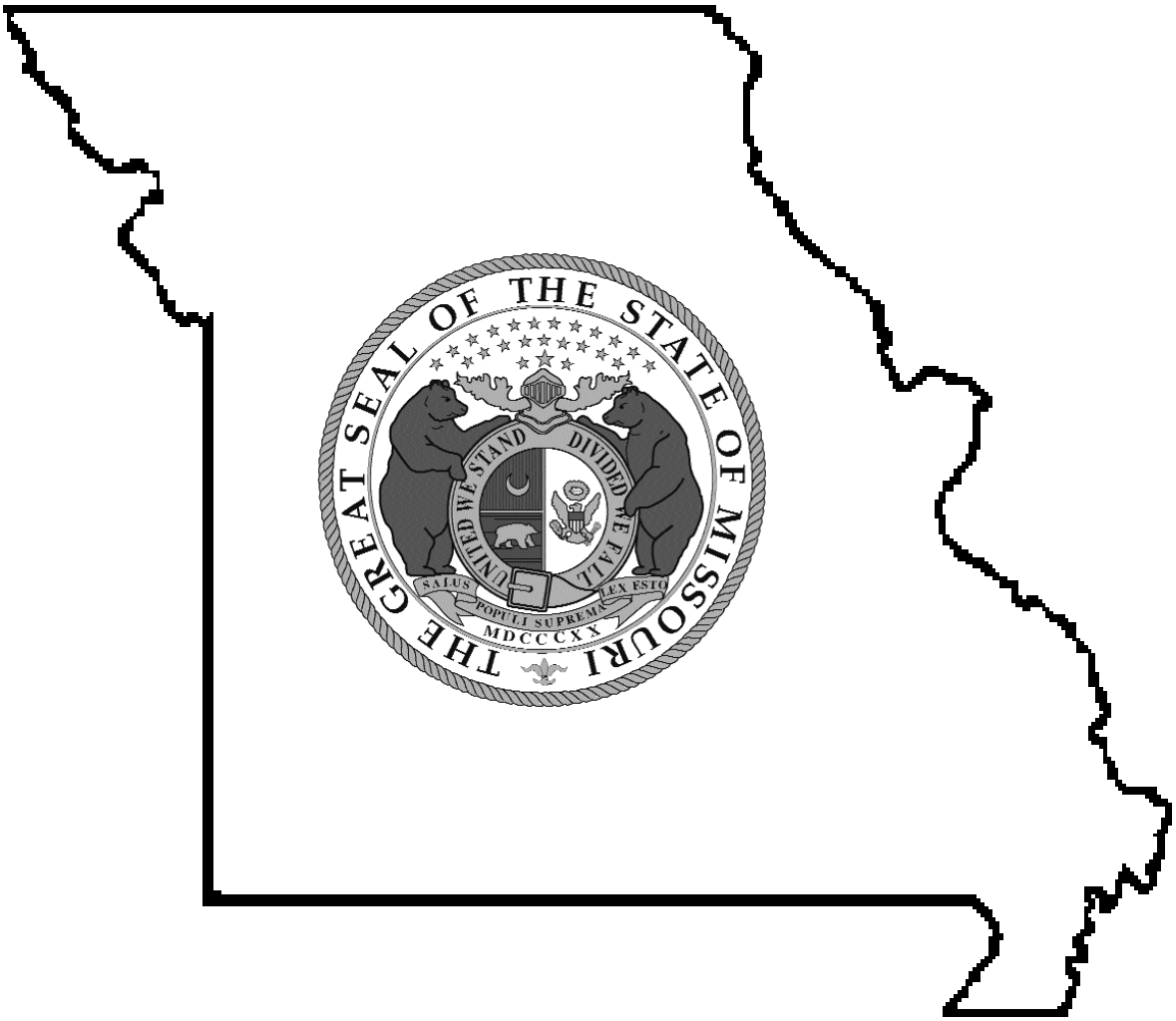
DRAFTING AND STYLE MANUAL



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